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"I beseech you, for the time to come, that we commit none but our own members; and that we avoid these old Council Table Warrants, which run in generals, 'during pleasure;' which was the cause of that excellent law, got with so much difficulty, called 'The Petition of Right.' That 'for abolishing the Star-Chamber, and regulating the Council-Table,' is not inferior to it.—I pray let us remember, and apply it to ourselves, how dangerous and fatal it hath ever been for kings to extend and stretch their prerogatives above, and beyond law; for the same fate befel the Council-Table, Star-Chamber, and High Commission. I pray let us keep ourselves within our sphere, and not make our privileges, *Entia transcenduntia*, which are not to be found in any predicament of Law."—SIR JOHN MAYNARD'S *Speech in the House of Commons*, 1648. *Parliamentary History*, Vol. III. p. 959.

"When I said to LORD CHATHAM, What will become of poor England, that doats on the imperfections of her pretended constitution? he replied, My dear Lord, the gout will dispose of me soon enough to prevent me from feeling the consequences of this insatiation: but, before the end of this century, either the Parliament will reform itself from within, or be reformed with a vengeance from without."—EARL BUCHAN'S *Essays on the Lives and Writings of Fletcher and Thomson*: p. 215. Octavo, 1792.

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SIR FRANCIS

AND

PARLIAMENTARY REFORM!

THESE words are the motto of the People of Westminster, and, indeed, of the people of England, who are now quite satisfied, that nothing can save them from that ruin and degradation, which was predicted by LORD CHATHAM, but a reform, a real reform, a radical reform, in the Commons House of Parliament. Being of opinion, that the present struggle for the personal liberty of the subject, and that all the other struggles, are of no use, and can be of no use, unless as tending towards the producing of that reform, it is my intention, in the present sheet, to offer some observations with respect to the sort of reform to be desired, and the natural consequences of such reform.

But, before I enter upon these observations, I must beg the reader's patience, while I finish what, for want of time and for want of more full information, I left unfinished last week, in the History, which I gave of the sending of SIR FRANCIS (we may leave out the *Burdett*, for there is but one Sir Francis in England) to the Tower, and the remarks which were added, relative to his conduct, subsequent to the Vote of the Honourable House for sending him thither.

The misrepresentations, with regard to the conduct of Sir Francis, during the space from the issuing of the Speaker's Warrant to the time of the actual imprisonment, were pretty well exposed last week. But, upon one point the exposure was not quite complete.—Mortification at wit-

nessing the proofs of Sir Francis's popularity; the envy; the "envy, eldest born of hell," which this set in motion, gave rise to the attempt which was made to propagate a belief, that Sir Francis had broken his promise with the Serjeant at Arms. Enough was said, upon this subject, to satisfy any rational man of the utter falsehood of the charge, and, indeed, there is no such man that doubts of its falsehood; but, a little more may, and shall, be done in the way of exposing to public execration those with whom the calumny originated.—On Friday Forenoon, about ten o'clock, the Serjeant at Arms wrote a letter to Sir Francis, wishing to know, when it would be agreeable to him for the Serjeant to go to him and conduct him to the Tower. Sir Francis wrote for answer: "Sir, I have just received your polite letter, and shall be at home to receive you at twelve o'clock to-morrow."—The Serjeant went to him in the evening of the same day (before this letter had reached him); and, parted with Sir Francis upon an agreement, that the Serjeant was to go the next day at eleven.—Instead of this, however, the Serjeant went again that same night, and wished to take Sir Francis off immediately. Sir Francis refused to go; here began the resistance; and this was called "a breach of promise."—It was before shewn, that Sir Francis's letter to the Serjeant contained no promise at all; that, to say, that he should be, "at home to receive the Serjeant," was so far from saying, that he should be ready to go with the Serjeant to the Tower, that it pretty clearly meant quite another thing; and, that, even supposing Sir Francis, at the first interview with the Serjeant (in

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the afternoon of Friday about five o'clock,) even supposing him then to have used words that seemed to imply, that he would go to the Tower with him the next day, it did not follow, that he broke his promise because he refused to go with him that night; though, if such understanding had really existed between them, it is clear enough that the Serjeant would be chargeable with a breach of his promise.

—The truth, however, appears to be, that no such promise ever was made by Sir Francis, either by expression or implication. And this truth is manifest from the *Evidence of the Serjeant himself*, which evidence, as published by the Honourable House itself, I have now before me.—From this evidence, it appears, that the Serjeant, after seeing Sir Francis, in the afternoon of the Friday, about five o'clock, went to the Speaker; and, that, it was in consequence of what the Speaker said to him, that he altered his mind about the time of putting the warrant in execution, and that he went to Sir Francis about eight o'clock, in order to put his warrant in execution without delay.—Now, if the Serjeant had no notion of any resistance; if he really did understand that Sir Francis meant to go quietly with him the next day, what did he go to the Speaker at all for about the matter? What could take him to the Speaker?—But, let us hear his own story, as far as relates to this point:

—“A little before four o'clock (Friday afternoon) I went down to the House of Commons, and was told, that Sir Francis had been seen going into his house; I immediately went back, and saw Sir Francis. He told me that he had written me an answer to my letter, thanking me for it, and saying, that he would be ready to receive me the next morning at eleven o'clock; at the same time he said he should write a letter to the Speaker. I then left him under the impression that he intended to go with me the next morning; and thinking that the quietest method of carrying the thing into effect was the best, and having received the Speaker's advice when I received the Warrant to treat Sir Francis with proper respect and courtesy, or words to that effect. I may be allowed perhaps to state at this moment that I had always conceived that to have been a sufficient notice from myself to a member of parliament, without serving the Warrant perhaps in a more regular way. If I have erred in any way, I trust the

House will consider that I did it from a proper motive of delicacy; that I wished to shew proper respect to a member of parliament upon such an occasion; and had I wished to carry my Warrant into effect at that moment, it would I think not have been in my power, as I had no assistance with me whatever, and there was a large mob collected before the door of Sir Francis's house. From Sir Francis's house I went to the Speaker, and reported to him what had taken place; and the Speaker advised me immediately to go back and put my Warrant into execution, and also advised me to call at the Secretary of State's Office for any assistance I conceived necessary to enable me to execute my Warrant. I was detained at the Secretary of State's Office till half past seven, and then was attended by Mr. Clementson to Sir Francis Burdett's house. On our being admitted to him, I told Sir Francis that I was sorry to inform him that I must name an earlier hour for his removal, and shewed him the Warrant for taking him into custody, which he read. Sir Francis then said, that he disputed the legality of the Speaker's Warrant, &c. &c.”—Then follows matter about which there is no dispute.—Well, then; look at this evidence. We see, that, at the very first interview, Sir Francis told the Serjeant, that he should send a letter to the Speaker. Why should he tell him that, unless something had been said about resistance to the warrant; or, at least, if Sir Francis had meant to obey the warrant? But, supposing the Serjeant to have conceived the notion, that Sir Francis meant to write the Speaker a letter of compliments or of thanks; still what carried the Serjeant in post-haste directly from the house of Sir Francis to that of the Speaker? Why should he go and make “a report” to the Speaker, unless something material had occurred? What had he to report upon, if Sir Francis and he were perfectly agreed as to the time of going to the Tower; and, if no resistance was apprehended? I think, that a very small portion of even common sense is quite sufficient to enable any man to perceive, from these circumstances, that the Serjeant must, at the very first interview, have received an intimation, that Sir Francis meant to resist the execution of the warrant, and that, of course, the charge of breach of promise, on the part of the latter, has no foundation.—But, what does the Speaker say,

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upon the report being made to him? Why: "go and execute your warrant immediately." And, for *what reason*? Why should he give this advice, if he was told, that it was understood between the parties, that Sir Francis would go quietly the next day? Why, I again ask, should the Speaker wish to push on the Serjeant thus? Oh! but he does not stop there! He advises the Serjeant besides, to call, in his way, "at the Secretary of State's." And *what for*? What does the Speaker advise him to call there *for*? Oh! only "for any assistance that he conceived necessary to enable him to execute his warrant." — Bravo! Here is a delightful story! The Serjeant goes to the Speaker, and, having told him that Sir Francis meant to go with him to the Tower very quietly, the Speaker advises him to call at the Secretary of State's office for any assistance that may be necessary to enable him to execute his warrant! — As if, however, this was not enough, the Serjeant is so good as to give the Honourable House a little positive testimony to the same point. — The reader will bear in mind, that the Serjeant's first interview with Sir Francis was about *five o'clock* on Friday, and that his second interview with him was about *eight o'clock*, or, at least, later than *half past seven*. — Well, now, observe, the Serjeant tells us, above, that he left Sir Francis, at *five*, "under the impression that he intended to go with him the next morning." — Bear the *hours* in mind, and then hear him again. He is asked; "At *what hour* on Friday did you first inform the Speaker, that Sir Francis Burdett meant to resist the warrant?" Mark his answer: "Between *five and six*." — This is pretty complete, I think. And yet there are men so base; there are turn-coats so vile as to pretend to believe, that Sir Francis, at the first interview, promised the Serjeant that he would go with him to the Tower! — But, I shall be told, that the Serjeant as positively declares the direct contrary of this in another part of his evidence. He does so; but, let it be observed in what manner the contradiction is extracted from him. — We will take the dialogue just as it stands. The *Speaker*, we must bear in mind, is the person who puts the questions to him here. — "*Mr. Speaker*. If the Serjeant has any doubt upon this point, and one or two other points, I would beg to state to the House the recollection I have upon the subject. In

"the early part of his evidence, the Serjeant did appear to intimate, that he had informed me that resistance was to be expected from Sir Francis Burdett when he saw me here at the House, and the House was sitting; *I wish the Serjeant to recollect*, whether when he came to me, the House then sitting and I in my private room, and when I asked him whether he had brought the receipt of the Lieutenant of the Tower for his prisoner, he did not at that time mention, that on the contrary, it was then settled between him and Sir Francis Burdett that he should go the following day? — Yes. — *Mr. Speaker*. Did you not afterwards see me between nine and ten o'clock at night, after you had seen Sir Francis Burdett the second time, and after you had read the warrant to him, and after Sir Francis Burdett had answered that he should resist that Warrant? — Yes. — *Mr. Speaker*. Recollecting these two conversations with me, at what time do you think it was that you first informed me of Sir Francis Burdett's intention to resist the Warrant? — THE LAST. — *Mr. Speaker*. And not the first? — And NOT THE FIRST, undoubtedly. — *Mr. Speaker*. So that the first intimation from you to me of the intention of Sir Francis Burdett to resist the warrant, did not come to me till between nine and ten on Friday night. — "No." — This, the reader will observe, is precisely the contrary of what the Serjeant before positively asserted. Which of the two ought to be believed must be left to the judgment of the reader. But, still there remains the fact, which was no where contradicted, that, at the first interview with the Speaker, the Speaker did advise the Serjeant "to call at the Secretary of State's office for any assistance that might be necessary to enable him to execute his warrant;" advice which it seems quite impossible to reconcile with the assertion, that Sir Francis had promised to go to the Tower the next day, and that he had intimated no intention to resist. — This matter is now fully and fairly before the public. What I have now said upon it, was not at all necessary in vindication of Sir Francis; but, it may be of great use as an exposure of his and the people's worst enemies, who raised the cry of breach of promise against him with a view of disguising the base motives of their openly deserting a cause, which, whenever their interests might require it, they always would have been ready to betray.

advertisement for a REWARD for discovering the unknown murderer. The murderer is a *soldier*, to be sure; but, still he is a murderer. There is an express advertisement offering a reward of 500 pounds for discovering the person who shot a hole through *Ensign Cowell's* hat. But, here we have *proof* of a shot being fired through a man's heart; and though this man was a bricklayer's son, he had parents and relations to leave behind him, and he had a life to preserve as well as *Ensign Cowell*. Why, therefore, I should be glad to know, do we not see a reward offered for the discovering of *this* murderer? This bricklayer's life is full as dear to the community as the life of an *Ensign*, or that of any of the *Thief-Takers*; and, therefore, I shall think it well worthy of particular notice, upon a future occasion, if a reward should not be offered for the discovery of the murderer.—I shall now, before I proceed any further with the history of the *Campaign*, give an account of the *Proceedings of the Electors of Westminster*. The moment their member was committed to the Tower, and, indeed, as soon as the Honourable House had passed the Vote for that purpose, the Electors of Westminster published their intention to hold a meeting, with a view of publicly expressing their sentiments with respect to what had passed.—This meeting took place, as was before mentioned, on Tuesday, the 17th instant. Aye, here it was that Mr. Ponsonby and Mr. Parker and Mr. Canning and Mr. Dudley Ward and Mr. Curwen might have seen, whether it was likely for Sir Francis to be *re-elected*, in case the Honourable House had expelled him; in case he had been expelled by that Honourable House who would not inquire into the grounds of the immortal motion of the morning of the 12th of May in the Year of Jubilee. Here it was that they might have heard, from the unanimous shout of *forty thousand people*, what was the public sentiment with respect to Sir Francis.—This meeting very far surpassed, in point of numbers, any thing ever before seen even in this great and public-spirited city; and, the result shewed, that, when the people receive no insults and no acts of violence, no violence is to be apprehended from them. These forty or fifty thousand people assembled and separated without the hair of any one's head being touched, though, the very sight of them might, perhaps, make some men's "hair stand on end."—

The business of the meeting was opened by Mr. STURCH, who, though a plain tradesman in the city of Westminster, is much abler, even as a speaker, than nine-tenths of those that one hears in other places, with all their insolence of pretensions. I have always much admired this Mr. STURCH, who is a man of plain sense, plain manners, and plain dress; meet him in whatever country you might, you would, at once, know him for a true Englishman. Mr. WISHART, who, I am very glad to perceive, seconded Mr. STURCH, is much about the same kind of man; which, indeed, is the general *stamp* of those men, who stand forward to guide the popular feeling in Westminster, and any one of whom is worth a thousand philosophers from Edinbro'.—This nation has long enough been cajoled and cheated by trading politicians; but these "good men and true" of Westminster have not only discovered the cheat, but appear to have resolved to put it out of countenance. What a shame! What a reproach to us, that we should seem to acknowledge that we stand in need of the wits of a set of half-starved speculating politicians, to be imported from Edinbro', and who, if well sifted, would be found destitute of almost every thing but roguery and impudence.—At the Meeting, a set of *Resolutions* was first passed; and, as in these Resolutions expressed, that a PETITION AND REMONSTRANCE should be presented to the Honourable House, and also that an ADDRESS should be presented to Sir Francis, these were read at the Meeting, and I shall now insert them here, beginning with

THE RESOLUTIONS.

"RESOLVED.—That we most highly approve of Sir Francis Burdett's Letter to us his Constituents, the subject being of the utmost importance, and the argument incontrovertible.

"That Sir Francis Burdett's conduct in calling upon the Civil Power for the Protection of his House against a Military Force was dictated by prudence, knowledge of and confidence in the Laws of his Country.

"That the House of Commons be called upon to restore to us our beloved Representative, and to co-operate immediately with him in his endeavours to procure a fair Representation of the People in Parliament.

"That the Petition now read, be adopted, that it be signed by the High

" Bailiff and Twenty-five Electors, and
 " delivered to our remaining Representa-
 " tive the Right Honourable Lord Coch-
 "rane, to be by him presented to the
 " House of Commons.

" That a Letter be addressed to Sir
 " Francis Burdett, expressing our full and
 " entire approbation of the whole and
 " every part of his conduct as a Member
 " of Parliament.

" That the Letter now read, be adopted;
 " that it be signed by Electors in the name
 " of this Meeting, and that the High Bai-
 " liff be requested to present the same to
 " Sir Francis Burdett.

" That the Thanks of this Meeting be
 " given to our worthy Representative the
 " Right Honourable Lord Cochrane, for
 " his support of Sir Francis Burdett, dur-
 " ing the present arduous struggle.

" That the Thanks of this Meeting be
 " given to those Independent Members of
 " the House of Commons, who have sup-
 " ported the Rights of the People.

" That the Thanks of this Meeting be
 " given to Arthur Morris, Esq. High Bai-
 " liff, for his ready compliance with the
 " Requisition of the Electors, and for his
 " able and impartial conduct in the Chair.

THE REMONSTRANCE.

" To the Honourable the Commons of the
 " United Kingdom of Great Britain and
 " Ireland in Parliament assembled.

" The Petition and Remonstrance of the
 " Inhabitant Householders, Electors of
 " the City and Liberties of Westmin-
 " ster, assembled in New Palace Yard,
 " the 17th day of April, 1810, by the
 " appointment of Arthur Morris, Esq.
 " High Bailiff, in pursuance of a re-
 " quisition for that purpose.

" We, the Inhabitant Householders,
 " Electors of the City and Liberties of
 " Westminster, feel most sensibly the in-
 " dignity offered to this City, in the person
 " of our beloved Representative, whose
 " Letter to us has fallen under the censure
 " of your Honourable House, but which,
 " so far from deserving that censure, ought,
 " in our opinion, to have led your Honour-
 " able House to reconsider the subject
 " which he had so ably, legally, and con-
 " stitutionally discussed.—We are con-
 " vinced that no one ought to be prosecu-
 " tor or juror, judge or executioner in his
 " own cause, much less to assume, accu-
 " mulate and exercise all those offices in
 " his own person.—We are also convinced,
 " that the refusal of your Honourable

" House to inquire into the conduct of
 " Lord Castlereagh and Mr. Perceval (then
 " two of his Majesty's Ministers), when
 " distinctly charged with the *Sale of a Seat*
 " in your Honourable House, evidence of
 " which was offered at the Bar by a Mem-
 " ber of your Honourable House; and
 " the avowal in your Honourable House,
 " " that such practices were as notorious as
 " " the sun at noon day;" practices, at the
 " bare mention of which, the Speaker of
 " your Honourable House declared, " that
 " " our ancestors would have started with in-
 " " dignation;" and the committal of Sir
 " Francis Burdett to prison, enforced by
 " military power, are circumstances which
 " render evident the imperious necessity
 " of an immediate Reform in the Represen-
 " tation of the People.

" We, therefore, most earnestly call
 " upon your Honourable House to re-
 " store to us our Representative, and
 " according to the Notice he has
 " given, to take the state of the Re-
 " presentation of the People into your
 " serious consideration, a Reform in
 " which is, in our opinion, the only
 " means of preserving the Country
 " from military despotism."

THE ADDRESS TO SIR FRANCIS.

" SIR—We nominated you to be our
 " Representative without your knowledge,
 " and we elected you without your inter-
 " ference. We were confident that you
 " would perform the duties of a Repre-
 " sentative in Parliament with ability and
 " fidelity. In every respect you have not
 " only fulfilled but exceeded our expecta-
 " tions. We derive the utmost satisfac-
 " tion from having pointed out to the na-
 " tion the way to be fairly represented.
 " Had it been possible, that our example
 " could have been followed and a proper
 " Representation thereby produced, the
 " scenes we have lately witnessed would
 " not have disgraced our Country.—
 " We understood the nobleness of your
 " mind, and were confident that you would
 " not descend to barter your trust for a
 " place under Government, nor be the
 " partisan or leader of those who support
 " or reject measures just as they happen
 " to be proposed on this or that side of
 " the House.—We feel the indignity that
 " has been offered to you, but we are not
 " surprised to find, that when every ex-
 " cuse is made for public delinquents, that
 " the utmost rigour is exercised against
 " him who pleads for the Ancient and

“Constitutional Rights of the People.—
 “You nobly stepped forward in defence of a
 “fellow subject unjustly imprisoned, and
 “you questioned with great ability and
 “knowledge of the laws, the warrant is-
 “sued upon that occasion; the House of
 “Commons have answered your argu-
 “ment by breaking into your House with
 “a military force, seizing your Person,
 “and conveying you by a large body of
 “troops to the Tower.—Your distinction
 “between Privilege and Power remains
 “unaltered: the Privileges of the House
 “of Commons are for the protection, not
 “for the destruction of the People.—We
 “have resolved to remonstrate with the
 “House of Commons on the outrages
 “committed under their orders, and to
 “call upon them to restore you to your
 “Seat in Parliament, which the present
 “state of the Country renders more than
 “ever necessary for the furtherance of
 “your and our object, a Reform of the
 “Representation in that House.—While
 “so many Members are collected toge-
 “ther by means ‘which it is not neces-
 “sary for us to describe,’ we cannot
 “but entertain the greatest apprehensions
 “for the remainder of our liberties; and
 “the employment of a military force
 “against one of their own body, is but a
 “sad presage of what may be expected
 “by those who, like you, have the cou-
 “rage to stand forward in defence of the
 “Rights of the People.—When we re-
 “flect on your generous exertions to de-
 “stroy the horrors of secret and solitary
 “confinement; to mitigate the severity
 “of punishment in the army; to prevent
 “the cashiering of its officers without
 “cause assigned; to restore for the com-
 “fort of the worn out soldier, the public
 “property conveyed by a job to a private
 “individual; to prevent the extension of
 “the barrack system, the obvious effect of
 “which is to separate the soldier from the
 “citizen; to prevent the introduction of
 “foreign troops; to bring to light an atro-
 “cious act of tyranny, by which a Bri-
 “tish sailor was left to perish on a barren
 “rock; and above all, your unremit-
 “ted exertions to obtain a full, fair and free
 “Representation of the People in Parlia-
 “ment; when we reflect on the firmness,
 “the unshaken constancy which you have
 “invariably shown, in evil report and
 “good fame, we are eager to express
 “our admiration and attach-
 “ment to you, and we are im-
 “pressed that those

“sentiments are not only felt by the In-
 “habitants of this City but by every per-
 “son throughout the land who is not in-
 “terested in the continuance of public
 “abuses. (Signed, &c. &c.)”

Now, are not the Electors of Westmin-
 ster capable of managing their affairs
 without the aid of Writers to the Signet?
 I trust that other cities and places will
 lose no time in convincing the booby
 pupils and patrons of those trading Poli-
 ticians, that the people of this kingdom
 have spirit as well as understanding.—
 LORD COCHRANE and MR. WARDLE at-
 tended the Meeting, and both of them
 made Speeches of considerable length.
 His lordship particularly dwelt on, and
 very well exposed the conduct of the
 OUT faction in reproaching the ministers
 with not having broken open his colleague's
 house soon enough. To be sure, this ought
 to be borne in mind. It most clearly
 shows, that, in their hearts, the OUTS have,
 all along, been full as great, if not greater,
 enemies of Sir Francis than the INS.—
 The speeches at this Meeting are too long
 to be inserted here; nor, indeed, can I in-
 sert any one of them; but, there is one
 passage in Mr. WARDLE's Speech, which
 is so excellent in itself, and contains so
 fine an exposure of a part of the proceed-
 ings of the assailants of Sir Francis, that
 I must insert it. He said that, “In the
 “Argument, addressed by Sir Francis
 “Burdett to his Constituents, there was
 “one expression that had been much in-
 “sisted upon in the course of the discus-
 “sions upon it, as most offensive and li-
 “bellous—it was that passage in which
 “the Speaker's Warrant was described as a
 “thing SUI GENERIS. Now in order to
 “shew that this assertion was not altogether
 “so unfounded as had been pretended, and
 “as nothing had as yet been said upon
 “that part of the subject, except in the
 “Resolutions, he would take the liberty
 “of trespassing upon their attention for a
 “few moments, while he proceeded to
 “trace the progress of this Warrant from
 “the time of its being issued by the
 “Speaker, to that of its being carried
 “into effect. It appeared, then, that the
 “Speaker, after having drawn up his
 “Warrant, presented it to the Serjeant,
 “who proceeded to execute it; but, on
 “his arrival at the house of Sir Francis,
 “he stumbles upon the unforeseen ob-
 “stacle of a closed hall-door [a laugh.]
 “How was this formidable barrier to be
 “disposed of? The Serjeant looked at



“his Warrant and then at the door, and
 “could make nothing of either: he found
 “himself at a loss: neither more nor less
 “than what they called *puzzled*; and as,
 “in such cases, sage advice is desirable,
 “he turns away from the hall-door and
 “proceeds to consult the Speaker—and
 “what does the Speaker? Why, he re-
 “fers to the Warrant, and after due de-
 “liberation, finds himself just as much
 “*puzzled* as the Serjeant had been [*a*
 “*laugh*;] but there was to be another
 “puzzle. The Speaker having advised the
 “Serjeant to consult the Magistrates,
 “away goes the Serjeant to the Bow-
 “street Officers; but they understood
 “too well the nature of a legal warrant to
 “be able to make any thing of an instru-
 “ment with which they were so wholly
 “unacquainted [*Applauses*,] and so the
 “Bow-street Officers being as much *puz-
 zled*, as either the Serjeant or the Speaker
 “himself, refused to give any advice at all
 “upon the subject (*a laugh*;) they un-
 “derstood the laws of the land, but they
 “did not pretend to the knowledge of a
 “Speaker’s warrant. But there was to
 “be yet another *puzzle* (*a laugh*;) and it
 “was fated that this all potent and undis-
 “puted instrument of power, that had
 “puzzled the Serjeant, puzzled the
 “Speaker, puzzled the Bow-street Ma-
 “gistrates, and puzzled all the Thief
 “Takers great and small, was to *puz-
 zle* no less than a Cabinet Council.
 “(*Laughter*.) The Serjeant, in his dis-
 “tress, turns from Bow-street to the grave
 “collected wisdom of Downing-street,
 “where all the first men of the state, the
 “learned, the mighty, and the wise, were
 “assembled together in Council, the Lord
 “High Chancellor himself, and to crown
 “all, the *unheard of* talents of the *wise man*
 “of the East. (*Bursts of laughter*, with
 “cries of “*we know him well*.”) With
 “all this accession of wisdom, what did
 “this great Council of State in order to
 “solve the puzzle? Why, they resolved
 “upon calling in the Attorney General
 “to help them—(*laughter*.) As soon as
 “the Cabinet Council had resolved them-
 “selves puzzled, the Chancellor of the
 “Exchequer (himself a lawyer,) advises
 “the Serjeant to ask advice of the At-
 “torney General—just as all the others
 “had, after grave deliberations, advised
 “him to take advice of somebody else.
 “(*Laughter*.) Well, then, the unfortunate
 “paper, after travelling so far to no pur-
 “pose, now that it was before the At-

“torney General, might be thought to be
 “in sight of land (*laughter*.) Accord-
 “ingly the Attorney General bears down
 “upon it with the whole weight of his
 “legal knowledge, and after studying and
 “deliberating, and revolving, this great
 “Law Officer gives it as his opinion and
 “advice, that the Serjeant should lay a
 “state of the case before him, the At-
 “torney General. (*Laughter*.) So much
 “for this plain and explicit piece of paper,
 “so paramount, intelligible, and indisput-
 “able, though it puzzled the Serjeant who
 “was to execute it, the Speaker, who issued
 “it, the Civil authority that was to enforce
 “it, the Privy Council that sanctioned it,
 “and the Attorney General that was to
 “explain it. (*Applauses*.) But, after *puz-
 zling* so many there remained one party
 “yet to be puzzled, and that was, a Bri-
 “tish Jury.—[Here Mr. Wardle was in-
 “terrupted by the repeated acclamations
 “of the Electors.]—It perhaps remained
 “for a British Jury to shew, if not what
 “it was, for that might be impossible, *what*
 “*it was not*. (*Applauses*.) And yet though
 “it had puzzled the knowledge and the
 “wisdom of the State, it was A LIBEL to
 “call it “a thing *sui generis*.” In the
 “name of common sense, what was it?
 “He would not quarrel about words, but
 “was it, or was it not, a thing that nobody
 “could understand? (*Loud applauses*.)
 “If it was *usage*, why had it been stated,
 “upon all hands, that there was no prece-
 “dent for breaking open outer doors to
 “enforce it? And if it was *law*, why were
 “all the great lawyers at such a stand?
 “Why should it prove such a *stumbling*
 “*block to a Government of Lawyers*?”—
 In taking our leave of this Meeting; this
 admirable display of public good-sense
 and public spirit, we must not forget to
 notice, that all the doors and avenues to the
 Honourable House were, upon this occasion,
 shut and barricadoed, and guarded by con-
 stables and other persons; and, that even
 the members were not permitted to go in at the
 usual entrance; but were obliged to go a
 round-about-way, and enter at a bye door.
 Why all these precautions? Of what and
 of whom could the Honourable House be
 afraid? Surely they could entertain no
 suspicion, that the people would attempt
 any acts of violence against them. It is really
 surprising, that the Honourable House
 should have thought these precautions
 necessary.—At any rate, the precau-
 tions were quite unnecessary; for, as in
 all former cases, where the people of

Westminster have not been attacked or insulted, not the smallest mischief happened; and this forty or fifty thousand people assembled and dispersed with as little disorder, and with as little indecorous behaviour, as the Honourable House itself. During the whole of the long-contested election of Sir Francis, not an act of violence was committed; and, when he was chaired, after the election, though there were, perhaps, *half a million* of people spectators of the scene, there was not even the most trifling accident. The reason was, that the people were not driven and squeezed about by soldiers; that they were left to their own good sense and mildness of disposition; that the lash was not shaken over them.—The *Petition and Remonstrance* was, from the Meeting, carried, at once, into the Honourable House, and there presented by LORD COCHRANE, who moved to have it *laid upon the table*. This was not much, but, even to this, as it is reported in the news-papers, the Honourable MR. WARD objected. I shall give the report as I find it in the Morning Chronicle of the 18th instant:—"The Honourable MR. WARD objected to this. "The petition even in point of form was inadmissible, in as much as it was entitled "A Petition and Remonstrance," which he conceived to be irregular. "At any rate, the expressions in the body of the petition were so indecorous and disrespectful, that the House would be *felo de se*, if it allowed it to be laid on the table."—What! Very good; but I beg the reader to bear in mind, that this MR. WARD is the person, who, at the opening of the present Session, was chosen, on the part of the OUTS, to move an amendment to the Address; or, in other words, a censure upon the ministers.—Here is another instance of what we should have had to expect from a *change of ministry*.—The minister, MR. PERCEVAL, complained of the language of the Petition and Remonstrance; but, did not oppose its being laid upon the table. So that MR. Dudley Ward found nobody to support him.—There was a very curious occurrence during the meeting. A couple of Thieves made an attempt to levy money in the way of their profession, and, being detected, fled with great speed; but *whither* think you? To the Honourable House; I mean to the lobby of the House; but, all the usual inlets being, as was stated before, closed and fastened, upon the present occasion, they were caught by their

pursuers at the door leading out of Westminster Hall, where, upon stripping them, *fifty pounds*, or thereabouts, in Bank notes, were found under one of their neck-cloths. Their hands being tied together, they were marched off to be taken before magistrates.—I now return to the Military Operations of the Campaign.—It is stated in the news-papers, that, amongst the troops, marched up to London, is the *Cambridgeshire militia*, under the command of their Colonel, MR. Charles Yorke.—On Monday, the 16th instant, was a *Grand Review* of all the cavalry regiments, in *Hyde Park*. The number of troops in and about London is immense. There appears to be what the French call a *cordon* all round the metropolis. On Monday I saw foot and artillery coming down from Hampstead. Cannon were, at one time, placed in Lincoln's-Inn-Fields. Great bodies of horse have, all this week, been parading the streets at night; and the parks and squares and streets all about Westminster seem to be swarming with troops of all descriptions.—The *Times* news-paper of the 17th instant, states, that during the sitting of the 16th, some of the Officers of the regiment, called the *Queen's Bays*, appeared in the Gallery of the Honourable House, *dressed in their uniform*, and that the Speaker sent the Deputy Serjeant at Arms to them, requesting them to withdraw, informing them, at the same time, that the Honourable House permitted no persons except their own members to enter any part of the House in military uniform, *lest it might be supposed, that the deliberations were over-awed by the military*.—This, if true, is very curious indeed. But, these gentlemen could not possibly mean any offence; nor could they suppose it possible, that the Honourable House had any jealousy of them. They had been sent for, and they well knew they had been sent for, *for the purpose of supporting the Honourable House against some, at least, of the people*. That is to say, for the purpose of causing to be executed a warrant, issued by order of the House: For the purpose of enforcing obedience to the orders of the House, which orders had been resisted by Sir Francis, who, it was supposed, was, or would be, supported in that resistance by the people in such numbers as to overpower the peace officers and the magistrates. These Gentlemen Dragoons knew very well, that this was the cause, for which they had been marched up to London; and, therefore, it was

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utterly impossible for them to believe, that, after they had successfully encountered the resistance, they themselves could be looked upon with an eye of jealousy by the Honourable House. Oh, no! And it must afford their friends in the country the greatest satisfaction to hear, that the Honourable House sits in perfect security. Why, the number of *General Officers*, now in and about the metropolis, is, I should think, little short of *three dozen*; more, very likely, than Buonaparté has within twenty miles of Paris, though many are, doubtless, assembled there, at this moment, on account of his nuptials. —It really does seem a little hard upon these Gentlemen of the *Queen's Bays* to be thus spoken of in the news-papers, when it is perfectly notorious, that their best efforts had been used in support of the Honourable House. Having come up for the purpose of supporting the Orders of the House, what could be more natural than their desire just to go and take a look at the members, and to hear them a little, especially when the subject of discussion was so immediately connected with the order, which they had been brought to town to cause to be enforced? —The last thing that I shall notice, respecting the Military Operations, is the Secretary of State's circular letter of *Thanks to the Volunteers*. —Till this letter issued, the name of the *king* had not appeared in the struggle. This, with all those whom I had conversed with, was a subject of great satisfaction. Nobody wished to see the *king's name* brought forward. The struggle was between Sir Francis and the House, and every one seemed glad, that his Majesty and his family were, in no wise, implicated in it. —The Secretary's Letter is as follows: —“Whitehall, April 12, 1810. — Sir; Having every reason to believe that the metropolis is in a great measure restored to its usual state of order and tranquillity, I lose no time in acquainting you, that the circumstances which lately induced his Majesty to call for the assistance of the Corps under your command, towards the preservation of the peace, no longer make it necessary that they should remain assembled. —It affords me the greatest satisfaction, to communicate to you, at the same time, the high sense entertained by his Majesty of the zeal and public spirit by which the Members of your Corps have been actuated on this important occasion, and the confident persuasion which is felt by

“his Majesty, that the same degree of alacrity will prevail among them, should circumstances make it necessary to call again for their exertions. —I have the honour to be, Sir, your most obedient humble servant, R. RYDER.” —It may be the mere form of office to say this in the king's name; but, I am sure, that every true friend of the kingly government, that is to say, every true friend of the country, must regret that that name was not still kept out of sight. Using his name thus is to make him appear as an active party, in an affair, in which it is manifest, that, except as to mere form, he had been no party at all. The king has no right, and claims no right, of punishing any of his subjects in any way but that of the usual course of law. He claims no protection for his character that is not claimed and enjoyed by every one of his subjects. If he be libelled, in ever so gross and infamous a manner, he cannot order the offender to prison, nor can any of his ministers do it. Yet, how rarely has it happened, that he has been libelled at all; indeed, how rarely has it happened, that he has been calumniated, or spoken ill of, by any writer! Therefore, his name should have been kept out of the whole of this quarrel, which, as I said before, is a quarrel between the Honourable House and Sir Francis. —Since, however, the *Volunteers* have been thus hoisted up to public notice, I shall, I think, be excused for publishing a little document or two respecting one of those corps, upon which documents, without any comment of mine, I shall leave the reader to form his opinion. What I am going to insert are little circular invitations from MR. H. DROMMOND, Lieut. Col. of the Prince of Wales's Volunteers, to the members of that corps.

“Monday Morning, 8 o'clock,
9th April 1810.

“Sir;—I have it in Command from Government most earnestly and most particularly to request your Attendance in Uniform this Evening in the Orderly Room, at six o'clock; and to remind you, that, in case of Non-Attendance, I am directed to give in your name to the Secretary of State.”

“Orderly Room, Tuesday Morning.

“Sir;—I am sorry to be again obliged, by the earnest desire of the Secretary of State, to request your Attendance at the Orderly Room this evening, at six o'clock precisely.—I must also beg of

"you to be *punctual*, as it is of importance
"that I should be able to *communicate*
"early the numbers that Government may de-
"pend upon in Aid of the Civil Power."

"Wednesday Morning,
11th April 1810.

"Sir;—I am again desired by the Se-
"cretary of State to request your Attend-
"ance this evening in the Orderly Room
"at Five o'clock: And I am also required
"to deliver in the Names of all who belong to
"the Corps, specifying such as attended and
"such as did not, with the Reasons for said
"Non-Attendance.—I hope I need not state
"how painful it will be to me, on this most
"urgent Occasion, not to represent to the
"Secretary of State that the Regiment, in
"point of Numbers, is not to be outdone
"in their zeal and exertion for the Welfare
"of the Community, and I therefore most
"earnestly entreat your Attendance."

I shall leave these invitations just as I find them, observing only that I send the printed tickets, just as they were issued by Mr. Drummond.—Nothing, however, can more strongly depict the anxiety that prevailed, even after Sir Francis was safely lodged in the Tower, and long after all symptoms of commotion had ceased. The mind, here, naturally flies back to the cause of this anxiety; but, reflections of that kind I must leave to the reader, while I hasten to the remaining and more important part of my proposed observations.

I observed at the out-set, that all these struggles, however important they may be as to questions of law, however deeply the rights and liberties of the people may be involved in them, are, in the present state of things, of little consequence, except in as far as they are connected with the great question of *Parliamentary Reform*, from the want of which it is my firm opinion, and, I believe, the opinion of a great majority of the nation, that great part of our calamities have arisen. And, this being my opinion, it is my duty to endeavour to explain to my readers *what sort of a Reform* it is that is wished for; and to state some, at least, of the *advantages which would arise from such reform*.

With respect to the first, I shall have but little trouble, having merely to describe the Plan, suggested by SIR FRANCIS, in his Speech of the 15th of June last, when he moved a Resolution for the subject being taken into consideration on an early day during this present Session. But, here, it is necessary, that I give a short

history of that motion.—Sir Francis had been frequently taunted with having no Plan: he had been asked *what he wanted*: he had been called upon for *something specific*. All this was quite out of the usual course. It was a sort of language held to no other man. But, in order to get rid of this taunting, he told the House, at last, that, *on such a day*, he would make a specific motion upon the subject. The day came, and what? Why, there was not a house; the benches were empty! There remained but two days of the Session, the last of which was no day at all for the making of a motion of this sort, because the House might, at any moment, be summoned away, by three raps, to the upper House to hear the sentence of their prorogation. The next day, therefore, was the only day that was left; on that day there appeared only 89 members in the House, and, in all likelihood, there would not have been a House at all, had there not been something to do, for which a House was absolutely necessary.—Such was the way, in which the introduction of this important and long-called-for motion was treated. No very flattering beginning; nothing, surely, to create much hope, that the House would be disposed seriously to take the matter into consideration.

The sort of Reform that we want is manifestly one, which will restore to the people of the whole kingdom their constitutional share in the government; that will, in other words, give to every man, *paying direct taxes*, that is to say, to every *man of real property*, in fee or by lease, a voice in the choosing of the persons, who are to impose those taxes, to cause them to be levied, and to dispose of them when levied. It is one of the great maxims of our Constitution, indeed, it is a maxim of our laws, and is dictated by reason and by nature, that no man shall be *taxed* but by his *own consent*. The *Peers* give this consent each for *himself*, and the *Commons* by their *Representatives*. But, in the present state of the lower House, can it be said, that *the people give their consent* to the taxes that are laid upon them? It was declared, in a Petition presented to the House in 1793, by Mr. Grey (now Earl Grey) that 307 members were put into the House by 154 persons, owners and patrons of boroughs. This was not, this is not, this cannot be, denied. But, after what we have recently seen, why need we waste our time upon facts like these?

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—Well, it is notorious, that the people of this kingdom are not so represented as to *tax themselves*. The *causes*, which have led to this state of things, have been often pointed out. They are, indeed, well known; and we feel the sad, the fatal effects.—How (for this is the only question that remains); *how, then, shall we go to work* to bring ourselves back to that state, in which it shall be truly said, that we are *not taxed without our own consent*? This is the question; and this question is answered in the Plan proposed by Sir Francis; the out-line of which plan I will now state in nearly his own words.—“I. That all male inhabitants, being householders, subject to direct taxation in support of the state, church, and poor, be required to elect members to serve in parliament.—II. That each county be subdivided according to its population; and each subdivision required to elect one representative.—III. That the votes be taken in each parish by the parish-officers; and all the elections finished in one and the same day.—IV. That the parish officers make the returns to the Sheriff’s Court to be held for that purpose, at stated periods.—V. That Parliaments be brought back to a constitutional duration.”

This, as the reader will perceive, is a mere out-line; but, here are all the great principles provided for. *Taxation* and *Representation* are here to go hand in hand. A House thus chosen would be the real representatives of the people, and would of course act for their good. As things now stand, a few wretches without principle, without property, and almost without shirts to their backs, are the choosers, nominally, of a great part of those, who have the disposal of our money, and who have the making of laws to govern us. One tenth part of every man’s gross income is now annually taken from him in one single tax; we know how great are the difficulties and distresses arising from this, added to all the other burdens laid upon us. And, is it not reasonable; supposing the constitution to say nothing at all about the matter; is it not reasonable that those who *pay* these enormous taxes, and endure the privations therefrom arising, should choose the persons, who are to watch over the *expenditure of them*? Gentlemen choose their own stewards; merchants choose their own factors; parishes choose their own Church Wardens and Overseers; all companies and associa-

tions choose their own Treasurer; Indeed, the contrary would be so absurd, that the thing requires no illustration. No man, *in his senses*, suffers another to appoint persons to take care of his property. If he be clearly proved to be *insane*, then, indeed, the law steps in and appoints persons to manage his property for him; and, really, surrounding nations might well believe, that the Boroughmongers had sued for and obtained a statute of lunacy against this taxed and insulted nation.—As to the manner of collecting the sense of the people; the mere manner of knowing to whom they wish to confide the management of their taxes, the one pointed out by Sir Francis appears to have no inconvenience in it. It is no matter how you get at this sense, so that you do really get at it. Whether it would be best to take the counties as they are, and let every voter have a vote for the whole number of members, or to subdivide the counties; this would be matter of mere regulation; and, as to the fair and just apportioning of the members to the several counties, the means are all at hand, are all ready prepared in the RETURN OF THE POPULATION; so that it would be a mere question of the Rule of Three how many members each county should elect.—The means of taking the votes are, too, all at hand. The Parish-Officers know every man in their parish and his circumstances so well, that deception, even if there were any temptation to it, would be next to impossible. No oaths; none of those odious and disgusting swearings, which now so disgrace even county elections, would be at all necessary. The Parish-Officers, on the day appointed, would be at the Church with their Polling List in one hand, and with their Tax-List in the other. They would only have to see that each voter’s name was upon the latter, and then to take down his vote. At night, or the next day, they would count up the numbers and send their Return to the Sheriff, who, in another day, would make up the general Return for the county, and transmit it to the Lord Chancellor, or whoever else ought to receive it; and thus would an election, through all the kingdom, take place with as little trouble and as little noise as the annual Easter Tuesday election of Church Wardens and Overseers. There would be none of that villainous oath-taking; none of that shameful drunkenness; none of those beastly scenes where

human nature is so degraded; we should see no hunks, speculating upon politics, drenching and gorging the most rascally part of the community, in order to get from them the sanction to plunder the honest and industrious; we should see no pettifogging Attornies, galloping from town to town and from house to house, giving lessons of bribery and corruption, and that race, even more detestable than these, the *electioneering parsons*, would disappear from that earth to which they have so long been a plague and a curse, seeing that benefices in the Church could not, in future, be the recompence of acts directly violating every principle of Christianity. We should hear none of those lying promises, now made by candidates to the voters; nor witness any of that base cajolery, used upon such occasions; and, which is of still greater consequence, we should hear no more of that bane of our country, called **PARLIAMENTARY INTEREST**, which, in plain English, means this: *the trucking of the places and profits under government for votes given at elections*, a traffic so common, and so little thought of, that we even hear people *boasting* that they carry it on. Is it, then any wonder, that our national affairs are conducted in the manner that they are? Is it any wonder, that we fail in our Expeditions? Is it any wonder, that so much imbecility and so much public-robbery prevail? Then, again, the mischief which this hellish **PARLIAMENTARY INTEREST** does amongst the people is enormous. How many families, who, had they never seen the face of a parliamentary speculator, would have been happy in the fruit of their industry, are now wasting away in poverty and expectancy?

One great advantage of a Reform upon this plan would be, that it would, at once, sweep away all those *Qualifications* and *Disqualifications*, which have been introduced as palliatives of a vicious system, and which produce so much false-swearing and so many other detestable acts. Where is the man so much of a miscreant as not to be able to get what is called a *Qualification* to serve in parliament, as the practice now is? This is truly abominable, in the face of so many laws. But, what are the laws relating to elections? Just calculated to bind conscientious men, and to secure impunity to those, whose acts shew, that they are destitute of conscience.—There is no danger that men without property would be elected, except in very rare instances. We are told, by those who op-

pose this sort of Reform, that we should let in *low people*, men *without any stake in the country*.—This is a pretty impudent thing to say. Just as if the taking of the power of voting out of the hands of pot-wallopers and other vagabonds, who sell their votes, and restoring that power to the owners and occupiers of the land and the shops and the principal houses; just as if such a change would cause *low men*, men *without estate*, to be elected members. The raggamuffins, who now sell their votes to the boroughmonger, and the boroughmonger who re-sells them, carry their perjury to the best market. They care not whether the purchaser be high or low, whether he have a real estate or an unpassed flemish account, whether his purchase money be his own or belongs in reality to the public; they care not who or what he is, or whether he come from India or from Hell.—Would it be thus; is it likely that it would be thus; nay, is it *possible*, that it could be thus, if the power of election was restored to all the owners and renters of the land and the principal houses, shutting out those who have, in fact, no property, and, amongst them, no small part of those wretches, whose bribed voices now return members to parliament? I ask, is this possible?—Looking, for instance, towards my own home, where I know all those, who, in case of such Reform, would be voters, I see none who could be prevailed upon to vote for a *low* or *worthless* man. Such voters, (who would, for the most part, consist of the yeomen, the farmers, and the tradesmen) would naturally choose *gentlemen of fortune* and of *good character*. It is not in nature that they should make a different choice. The habits, the mind of men must be changed; we must suppose all the people of property in the nation to become possessed of a desire to degrade themselves, before we can suppose, that elections, after the manner proposed, would not produce a parliament composed of gentlemen of estate, of good character, and fair abilities. How, then, would such a change tend to the predominance of *democracy*? The great families would still have their *influence*, but would be unable to buy and sell the people. All estate, all wealth, but especially all real estate, must and would have its influence; and so it ought; but, it would not undermine and corrupt.—In short, it is a most preposterous notion (a notion propagated by knaves for the purpose of scaring fools)

that, by taking the power of electing from the worst men in the kingdom and giving it to the best men in the kingdom, we should be in danger of producing a *bad choice of members*, such a choice as would directly tend to the overthrow of the government. Is it to be believed; can any man bear to be told, that a majority of the people of property in England are *not worthy to be trusted*? Will any one say, that he believes, that a majority of the people of property in England, a majority of those who pay to Church and Poor, *wish to overturn the government*? No; neither Mr. Windham nor his new friend Mr. Forke will say this, I think. Well, then, if they do not *wish* to overturn the government, why should they *elect* such men for representatives as *would* overturn it? Why should they?—It is useless to go on. The objection has been hatched by corruption, for the sake of deceiving the credulous and the timid. The supposition, on which it is grounded, is impudently false, those who start it being well assured, that the proposed Reform would restore to the throne its rightful dignity and prerogatives, and would pull down nothing but the boroughmonger faction.

Let this plan be adopted, and there would be no need of any of those harsh and odious *disqualifications* that now exist. Supposing *Excise-Officers*, for instance, to be necessary, why should they not vote as well as other men of property? Why should they be shut out; why have a mark of approbrium thus fixed upon them, merely because they are servants of the public appointed by the king? But, it is one of the curses of the boroughmonger system, the seat-selling system, the false-swearing system; it is one of the great curses of this system, that its notorious frauds, its flagrant robberies, its unbearable deprivations upon the people, make us look upon all persons, employed under the government, as *our enemies*, or, at least, as *bearing an interest inimical to our rights and liberties*; and, upon this truly shocking notion those laws have been made, which shut out Excise Officers and others from the pale of elections.—All these exclusions would, by the plan in contemplation, be done away for ever, and cordial harmony and mutual confidence would, after long, long suspension, be once more restored between the government and the people.

It is a constant trick with the seat-trading crew to cry out, that Reform would endanger the *kingly* government.

They are a body unseen, but ever active. The wasting of the public money, in pensions and sinecures, of which we so often complain, proceeds from them, in reality, and not from the king. We see the king's minister always with a majority at his back; but, that majority is not secured without means. I do not say, that it is purchased with cash upon the nail; that is no longer the fashion, as it appears to have been in Ireland, in the time of SWIFT, whose poem upon the subject, I have, by way of shewing *how men wrote about parliaments in the days of our grandfathers*, inserted below: no, that is no longer the fashion; but, it is notorious, that no minister can keep a majority without making his favour circulate amongst those, or, at least, the relations and friends of those who vote with him.—And, what a miserable thing is this? What a life must a minister lead, surrounded with such "friends?" Did the cares, thus created, leave him time to think of any thing else, he is prevented from doing, in many cases, what he would do; and, as to the king, what, short of an influence like this could ever have prevailed upon GEORGE III to set his hand to the grant to Mrs. Fox? I could mention many other acts; but this, I think, does surpass all others. What! King George the Third, in his old age, grant a pension to the very highest amount that the law permits him to go; to put his *hand* to a grant of such a pension to Mrs. Fox! Is there, in all England, one man who believes, that the king did that *act voluntarily*; and that it did not cost him many a pang? What feelings must those men have had, who thrust such a grant under his hand; and, what a system must that be, which places a king in such a predicament? In short, I think, it cannot be doubted; I think that there is no man in his senses, who can doubt, that the Reform proposed would tend not less to the stability of the throne than to the happiness of the people; and, not only to the dry legal stability, but to the dignity and high feeling of the king and his family, who are now but too frequently confounded with those, from whom they should always be kept distinct.

I have not time to extend these observations, and, it would, indeed, be of little use; for the bare stating, I think, of Sir Francis's Plan, together with just pointing out some of its effects, must be quite sufficient to convince any reasonable man, that this is what the nation now stands in need of; and, that the adoption of it,

without loss of time, is necessary to prevent the catastrophe predicted by Lord Chatham, as stated in one of the passages, taken for a motto to the present Number. Perverse and self-interested men; men, who would as lief see their country enslaved from without, who would rather risk that event, and who would gladly see a military despotism established within; men, who would take either of these, sooner than yield their unjust pretensions, will spare nothing, of course, to prevent the adoption of a measure, like that now proposed, and to misrepresent the motives and to blacken the character of all those who stand forward in its support. But, still it must come; or misery unparalleled is England's doom. I have, since I last came to town, heard a person or two observe, with, I thought, feelings of satisfaction, that, "*the people were nothing against the soldiers.*" Nothing against the soldiers! What, then, is it supposed, that the government of England is to be maintained, and by military force, too, *against the will of the people?* A proposition not to be endured, under any circumstances; and, what shall we think of it, then, when applied to circumstances, wherein "*the representatives of the people*" are the object of military support?—"Nothing against the soldiers!" It is painful to me, and it is really alarming to hear observations like these from persons of any consequence.—"Nothing!" Do you call it *nothing* to have caused all the Southern and Midland counties to have been drained of troops? Do you call it *nothing* to have caused an army of forty or fifty thousand men to be marched to London for the purpose of causing an order of "*the representatives of the people*" to be obeyed. Do you call this *nothing*?—But, I would seriously ask these persons, whether they think, that it will do to keep a military force constantly on foot for the *support of the House*? Whether they think, that such a thing can possibly last, for any length of time?—Well, suppose them to answer in the affirmative; then I ask what will be the consequence, in case Buonaparté should, no matter where, effect a landing in this kingdom? What will then become of the military force?—And, *why* should we be put to the expence of such a force? Why should the struggle between the House and the People be kept up? What is the *cause*? Why should not harmony be restored; and why should not the House regain the love of the people by adopting their unanimous

wishes (as far as they are not immediately interested in support of the borough system) for a Reform? Not a measure, called a "*Reform*," but which, in fact, would be no more than a measure for legalizing bribery and corruption; not a reform that shall merely regulate the market for seats; not a "*Reform*," which shall make us purchase the fee simple of false oaths, the vendors being aware that they are not worth two years' purchase; not a "*Reform*" that shall make any sort of compromise with corruption, and especially a "*Reform*" that shall take the boroughs out of the hands of the nobility and transfer them to the ready-rhinoed stock-jobbers: no, none of these: no sham "*Reforms*;" nothing to amuse and cajole; nothing, in substance and effect, short of the proposition of Sir Francis. And why should we not have this Reform? Why should we be discussing the question, whether the House can, or cannot, *be maintained, for a permanency, by a military force?* Alas! What a question is this for Englishmen seriously to discuss! It never can long be a question. I agree perfectly in the closing sentiment of the Westminster Remonstrance, namely, "*that nothing but a Reform can save us from military despotism;*" but, I will not believe, that, with all the good-sense and all the public spirit that are now so visible in the people, the measure of Reform can possibly fail. I look forward to its accomplishment with nearly as much confidence as I look forward to the return of the seasons. I see few things that can retard it, and nothing by which it can be finally prevented. The recent occurrences have not *created*, but merely *strengthened*, the general wish for Reform; Reform is the object which alone is worthy of our anxious attention; and, in all our endeavours to work conviction in the public mind, we, never forgetting the Champion of our cause, should begin and end with

SIR FRANCIS AND REFORM.
W^m. COBBETT.
Westminster, 18th April, 1810.

P. S. 19th April.—I have just taken a glance at the Debate upon Lord Ossington's motion, relating to the murder committed by the *Life-guards'* man (a happy enough association!); and, I see, that another *murder* has been found to have been committed by another of these *Life-guardiers*, in the city; but, on these I must postpone further notice till my next.

COBBETT'S Parliamentary Debates:

The Fifteenth Volume of the above Work is in the Press, and will be published with all proper dispatch. All Communications will be carefully attended to; but it is particularly requested that they may be forwarded as early as possible.

THE SIXTH VOLUME OF COBBETT'S Parliamentary History OF ENGLAND,

Comprising the Period from the Accession of Queen Anne, in 1702, to the Accession of King George the First, in 1714, is ready for Delivery.

SWIFT'S CHARACTER, PANEGYRIC, AND DESCRIPTION OF THE LEGION-CLUB. 1736.

As I stroll the city, oft' I
See a building large and lofty,
Not a bow-shot from the College;
Half the globe from sense and knowledge:
By the prudent architect,
Plac'd against the Church direct,
Making good my grand-dame's jest,
"Near the church"—you know the rest.

Tell us what the pile contains?
Many a head that holds no brains.
These demoniacs let me dub
With the name of Legion-Club.
Such assemblies, you might swear
Meet when butchers bait a bear;
Such a noise, and such haranguing,
When a brother thief is hanging;
Such a rout and such a rabble
Run to hear Jack-pudding gabble;
Such a crowd their ordure throws
On a far less villain's nose.

Could I from the building's top
Hear the rattling thunder drop,
While the devil upon the roof
(If the devil be thunder-proof)
Should with poker fiery red
Crack the stones, and melt the lead;

Drive them down on every scull,
While the DEN OF THIEVES is full;
Quite destroy the harpies nest;
How might then our isle be blest!
For divines allow, that God
Sometimes makes the devil his rod;
And the gospel will inform us,
He can punish sins enormous.

Yet should Swift endow the schools,
For his lunatics and fools,
With a rood or two of land;
I allow the pile may stand.
You perhaps will ask me, Why so?
But it is with this proviso:
Since the house is like to last,
Let the royal grant be pass'd,
That the club have right to dwell
Each within his proper cell,
With a passage left to creep in,
And a hole above for peeping.

Let them when they once get in,
Sell the nation for a pin;
While they sit a picking straws,
Let them rave at making laws;
While they never hold their tongue,
Let them dabble in their dung:

Let them, ere they crack a louse,
Call for th' Orders of the House;
Let them with their gosling quills,
Scribble senseless heads of bills.
We may, while they strain their throats,
Wipe our a**s with their Votes,

Come assist me, Muse obedient!
Let us try some new expedient;
Shift the scene for half an hour,
Time and place are in thy power.
Thither, gentle Muse, conduct me;
I shall ask, and you instruct me.

See, the Muse unbars the gate!
Hark, the Monkeys, how they prate!
All ye gods who rule the soul!
Styx, through Hell whose waters roll;
Let me be allow'd to tell,
What I heard in yonder Hell.

Near the door an entrance gaps,
Crowded round with antic shapes,
Poverty, and Grief, and Care,
Causeless Joy, and true Despair;
Discord periwigg'd with snakes,
See the dreadful strides she takes!

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By this *odious crew* beset,
 I began to rage and fret,
 And resolv'd to break their pates,
 Ere we entered at the gates :
 Had not Clio in the nick
 Whisper'd me, "Lay down your stick."
 "What," said I, "is this the mad-house?"
 "These" she answer'd "are but shadows,"
 "Phantoms bodiless and vain,
 Empty visions of the brain."

In the porch Briareus stands,
 Shows a *bribe in all his hands*;

When the rogues their country fleece,
 They may hope for pence a-piece.

Clio, who had been so wise
 To put on a *fool's disguise*,
 To bespeak some approbation,
 And be thought a near relation,
 When she saw three hundred brutes
 All involv'd in wild disputes,
 Roaring till their lungs were spent,
 PRIVILEGE OF PARLIAMENT,
 Now a new misfortune feels,
 DREADING TO BE LAID BY TH' HEELS.
 Never durst a Muse before
 Enter that infernal door ;
 Clio, stifled with the smell,
 Into spleen and vapours fell,
 By the Stygian steams that flew
 From the dire infectious crew.
 Not the stench of lake Avernus
 Could have more offended her nose ;
 Had she flown but o'er the top
 She had felt her pinions drop,
 And by exhalations dire,
 Though a goddess, must expire.
 In a fright she crept away ;
 Bravely I resolved to stay.

When I saw the keeper frown,
 Tipping him with half a crown,
 "Now," said I, "we are alone,
 Name your heroes one by one."

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How I want thee, humorous Hogarth !
 Thou, I hear, a pleasant rogue art.
 Were but you and I acquainted,
 Every monster should be painted :
 You should try your graving-tools
 On this *ODIOUS GROUPE OF FOOLS* :

Draw the beasts as I describe them
 From their features, while I gibe them ;
 Draw them like ; for I assure you,
 You will need no *car'atura* ;
 Draw them so, that we may trace
 All the soul in every face.

Keeper, I must now retire,
 You have done what I desire :
 But I feel my spirits spent
 With the noise, the sight, the scent.
 "Pray be patient ; you shall find
 Half the best are still behind :
 You have hardly seen a score :
 I can shew two hundred more."
 Keeper, I have seen enough.—
 Taking then a pinch of snuff,
 I concluded, looking round them,
 "MAY THEIR GOD, THE DEVIL, CON-
 FOUND THEM !"

A WORD IN BEHALF OF MR. GALE JONES.

SIR ; I read with great pleasure and admiration, in one of your Weekly Registers, the very able and learned Argument of Sir Francis Burdett, against the power, claimed by the House of Commons, of imprisoning British subjects, that are not Members of their own body, for publishing writings that pass censures on their proceedings, and which they therefore consider as Libels. The reasonings in this Argument appear to me just and convincing, and the manner of expressing them to be clear and methodical, and accompanied with all the elegance of language that the subject will admit of: in short, I consider it as a performance that would have done honour to the most eminent of our patriotic lawyers of former times, to Mr. Selden, Sir Matthew Hale, or Lord Chancellor Somers. And I heartily wish that the House of Commons would adopt the doctrine of it, and abandon the odious power they have hitherto claimed, and sometimes, though rarely, exercised, but never without lessening that confidence and affection between them and the body of the people, which is the great foundation of their dignity and importance in the State. But, as they may not, perhaps, be disposed to adopt so self-denying a conduct, and may insist upon retaining this power, I beg leave to suggest, on the behalf of Mr. Gale Jones, that, upon carefully considering the offence he has been guilty of, in

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publishing a placard in which he informs the people, "that by clearing the Gallery of the House of Commons, during the examination of some of the witnesses concerning the Expedition to Walcheren, their feelings have been outraged by depriving them of the means of knowing, in the most complete and satisfactory manner, the several circumstances given in evidence relating to that Expedition;" it will appear, that the said offence is not a censure on the House of Commons, but only upon one of their members, namely, Mr. C. Yorke, who moved the House to clear the Gallery, agreeably to the standing order of the House. Now, the standing orders of the House cannot be opposed, or brought into discussion, on a sudden, or without a formal motion, after due previous notice, to repeal or suspend them on some particular occasion; and, therefore, such of the members of the House of Commons (of whom, no doubt, there were a great number) as would have wished the Gallery not to be cleared on that occasion, were not at liberty to oppose Mr. Yorke's motion for clearing it. And this, we may well suppose, Mr. Gale Jones knew. And therefore Mr. Jones cannot be supposed to blame those members, nor any of the members, for not doing what they were not at liberty to do, but to blame him alone who was the cause of this exclusion of strangers on that occasion, that is, Mr. Charles Yorke. And then the placard must be understood to have the same meaning as if it had been worded in the following manner: "Mr. Charles Yorke, on the day of the examination of those witnesses concerning the Walcheren Expedition, moved the House of Commons to clear the Gallery; (which, being agreeable to the Standing Order of the House, was necessarily complied with) and thereby he has outraged the feelings, and thwarted the wishes, of the people, who were anxiously desirous of being informed, in the most complete manner, of all the circumstances of the late unfortunate Expedition to Walcheren." Now, if these words had been published in the placard, or in a news-paper on the next day, would they (though relating only to the act of a single member of parliament,) have been considered as a censure of the whole House of Commons, and a sufficient ground for the exercise of their high power of imprisonment? If they would not, Mr. Gale Jones ought not to have been imprisoned, and ought now to be discharged,

A CONSTANT READER.

LIBERTY OF THE SUBJECT.

Rara temporum felicitas, ubi sentire quæ velis et quæ sentias dicere licet. Tacit. Hist. l. 1.

SIR; I have already troubled you with some observations in respect of the power exercised by the House of Commons, over the Liberty of the Subject; and as it is a question of the greatest public importance, and there appears to be much contrariety of reasoning upon it, I perhaps may be excused if I venture to offer some further remarks. In perusing the arguments of the defenders of this power, I have been much astonished with the course that has been pursued. Precedents, and those extracted from the very worst periods of our history, have been brought as unanswerable proofs of the right to exercise the Privileges claimed by the House of Commons; and so straightened have been the advocates for power, that they have even cited the indecent and disgusting fact, of a judge (Berkley) being rudely dragged from the justice seat, in obedience to a mandate of the representatives of the people. I am, Sir, of very different sentiments from the gentlemen who triumph in such instances of power; I should have been anxious to have found an apology for such an act of violence; far would it have been from my wish to have given it currency by quotation. Are ministers so driven, as to depend for support on an occurrence, that should rather seem to mark the rude decision of a knot of savages, than the cool, temperate, and enlightened judgment of the great council of a nation, priding itself in its civilization? I should have urged, that this precedent had happened in that period of the reign of Charles I, when popular ferment had fevered the public mind. I should have urged this excuse for an act of arbitrary violence, which reason laments, and power cannot palliate. Do ministers mean to say, that precedent unsupported by principle, can be of any weight with a reasonable mind? that if an act be tyrannical, repetition can give it stability and make it either lawful or justifiable? Would not Proclamations from the Crown and General Warrants, which had precedents innumerable in their favour, have been defensible upon the same course of reasoning? What enormity has power committed that cannot be found to be allied to precedent? Is it not then very remarkable, passing strange, that we should hear nothing of principle asserted in favour of these mysterious

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privileges, "undefined by law; unknown to the subject; which we must not approach without awe, nor speak of without reverence, which no man may question, and to which all men must submit*." Really we must imagine, that the gentlemen of the long-robe cloud not a little their understandings with the dust that accompanies their ponderous folios when taken from the battlements where this artillery of legal learning is deposited. What infatuation for precedent must exist, when the reigns of the Tudors and the Stuarts are ransacked for cases to justify an infringement of the subject's liberty! It must have been this predilection for precedent, and total disregard of principle, that induced a very enlightened scholar, to denominate the lawyers, "doctissimum genus indoctissimorum hominum†." But, Sir, as I consider that injustice can never be justified by repetition, nor sanctified by time, I shall venture to enquire, what there is of principle, in the Privilege claimed by the House of Commons. In doing this, it may not be amiss to investigate a little the nature of governments, and the principles upon which our own has been established. Man is naturally ambitious; ambition leads to power, and power to the usurpation of private right. The great object therefore, of every well constituted state, is to limit power by certain rules, to which the rich and the poor are equally bound to conform; and these are called laws. Montesquieu says, "constant experience shews us, that every man invested with power is apt to abuse it; he pushes on till he comes to something that limits him. Is it not strange, though true," continues this able writer, "to say, that virtue itself has need of limits? to prevent the abuse of Power, it is necessary, that, by the very disposition of things, power should be checked to Power." It was from this want of a check to Power, that all the ancient governments were frail and fell to decay. The Republics of old were sacrificed to this demon, Uncontrouled Power, who from hourly enlarging, at length extended to those limits, to which Montesquieu alludes, and then fell a victim to his own enormity. Cicero foresaw that power must be checked, to render a government just, and give it stability; and he foresaw

* Lord Chatham's Speech, Debates 1770.

† Erasmus.

too, that that could only be the consequence of laws proceeding from the union of the different orders of the community: "Statuo esse optimè constitutam rempublicam, quæ ex tribus generibus illis, regali, optimo et populari, modice confusa*." Tacitus saw the efficacy of such a government, but doubted the possibility of its existence. What, let me ask, is the grand object of a government so constituted? is it not, that the public good, that the common-weal, should be secured by the least possible infringement of individual liberty? and how can that be effected, but by the institution of known laws which none can disobey with impunity. "A government," says Aristotle "where the laws alone should prevail, would be the kingdom of God;" and Livy speaks of those glorious times, when "Imperia legum potentiora fuerunt quam hominum;" when the laws prevailed over arbitrary power. It is such a government as this, which affords the best definition of political liberty; and difficult as it appeared to the ancients, such a constitution has been generally considered to be the happy lot of Britons. "By a fortunate conjunction of circumstances," says De Lolme, "by the assistance of a favourable situation, Liberty has at last been able to erect herself a temple." Montesquieu, after noticing that Political Liberty is the direct end of the Constitution of England, proceeds to enquire, in what that Liberty is founded; and he observes, "the Liberty of the Subject is a tranquillity of mind arising from the opinion each person has of his safety. In order to have this Liberty, it is requisite the government be so constituted as that one man be not afraid of another. But," says Montesquieu, "when the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no Liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner; and again, there is no Liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the Life and Liberty of the Subject would be exposed to arbitrary controul; for the judge would then be the legislator. Were it joined to the executive power, the judge

* Cic. Fragm.



"might behave with violence and oppression." After laying down these maxims, this author proceeds to shew that the English constitution is founded on the strict observance of them. "The basis of the English constitution," says De Lolme also, "the capital principle on which all others depend, is, that legislative power belongs to parliament alone; that is to say, the power of establishing laws, and of abrogating, changing or explaining them. The constituent parts of parliament are the King, the House of Lords, and the House of Commons." And again, he says, "that all the laws that are in being, are certainly executed whenever appealed to, is what I look upon as the characteristic and undisputed advantage of the English constitution." I give these opinions of eminent writers, which some readers may possibly think superfluous, because I am desirous, that in discussing the privileges claimed by the House of Commons, the grand and fundamental principles of our constitution may be clearly understood. It may be easily imagined, that notwithstanding the strong features of our constitution may have been known before, yet that after the Norman Conquest the constitution must have been found in a somewhat fluctuating state; and it does not appear to have been settled on a firm basis till Magna Charta, that great outline of the Subjects' Liberty, was obtained from King John; and, until a House of Commons was convened in the subsequent reign of Henry III. in order to protect Magna Charta. Then it was that the principles of our constitution were united in a firm and compact system; then it was that, according to the maxim of Montesquieu, power was checked by power. So long as this excellent equilibrium shall be preserved, the constitution will remain entire; but whenever one of the constituent parts of parliament shall exercise a power undefined by the laws, and independently of the concurrence of the other branches, does it not amount to a mathematical demonstration, that the constitution will then cease to exist. The great advantages therefore resulting from our constitution, consist of laws being made by the union of all the constituent branches of parliament, and by those laws being known to the subject, and being uniform and universal in their operation. It is true, that the grand struggle from King John to the Revolution has been against the

prerogative of the crown; but that has arisen from the circumstance, that most attempts at exorbitant power have proceeded from the executive branch. Indeed, when we reflect, that it is much more probable that an individual should be misled than a body, it is reasonable to conclude, that greater circumspection would be requisite towards the crown, than either of the other constituent branches of parliament. But it does not follow, that a body of men should not be guilty of excess as well as an individual; and when that happens, the body will be as much the object of jealousy as the crown. Swift, who was well acquainted with human nature, says, "So endless and exorbitant are the desires of men, that they will grasp at all, and can form no scheme of perfect happiness with less. It is hard to recollect one folly, infirmity, or vice, to which a single man is subjected, and from which a body of Commons, collective or representative, can be wholly exempt." This makes known and certain laws the only guardian of political liberty. We must not be fastidious, and imagine that Machiavel libels the dignity of man, when he says, "Men are never good but through necessity, and that laws only can make them good." As far as regards political society, Machiavel's observation is sound, and Junius very forcibly illustrated it, when he said, that "laws are intended, not to trust to what men will do, but to guard against what they may do." The grand ultimatum therefore of the English constitution is the Liberty of the Subject, flowing from equal laws, the offspring of a just equilibrium in the three branches of parliament; and which I cannot better exemplify, than in the words of the author of *Reflections on the Rise and Fall of the Ancient Republics* *. "The equitable intent of our laws," says this author, "is plainly calculated, like those of Solon, to preserve the Liberty and Property of every individual in the community; and to restrain alike the richest or the poorest, the greatest or the meanest, from doing or suffering wrong from each other. This is the wise and salutary plan of power established at the Revolution. Would we always adhere steadily to this plan, and preserve the just equilibrium, as delivered down to us by our great ancestors, our constitution

* Edward Wortley Montagu.

"would remain firm and unshaken to the 'end of time.'" Having shortly enquired into the principles of our constitution, I shall next proceed to consider, how far the Privileges claimed by the House of Commons are in conformity or in opposition to those principles. The House of Commons, in asserting their right to be the sole judges of their Privileges, assume, I contend, the power of making a law independently of the other constituent parts of government. For these Privileges are not to be discovered in any written code; neither can they be founded on imprescriptible usage; because, although the words in Magna Charta "*per legem terræ*" should be considered to relate to usages and customs then in existence, they cannot apply to what arose posterior to the Charter; and the House of Commons was indubitably of a subsequent period*. But there is another very cogent reason why these Privileges cannot exist either in written law or usage, viz. that they are not defined; the House of Commons assume that they are undefined; and many of the Judges who have supported the House at different times in the exercise of these Privileges have declared them to be undefinable. Now it must be evident that no usage or custom can be set up for the exercise of what is not within the boundary of definition; for that would be to establish a custom for arbitrary power, which is contrary to common sense, and in direct violation of the fundamental maxims of our Constitution, as I have before shewn. The House of Commons therefore claim the right of making laws of their distinct authority; for as to calling undefined Privileges the Law of Parliament, that seems far above any ordinary understanding to comprehend; for if it be law, it must have bounds; it must have known limits; and what has limits may be exceeded. But who is to judge whether the Privileges claimed, exceed those boundaries or not? Are those who claim the Privileges to be the sole Judges. If they are, let any man define arbitrary power; and if he can find a shade of difference between that and these Privileges, let him point it out, for I am unable to discern the least distinction. The House of Commons then, I assert, claim a right, which, upon the principles of the constitu-

tion, should solely belong to the three estates collectively. The House of Commons further assume the right of determining what shall be a breach of such Privileges. Here then they take upon themselves a judicial power, which upon the principles of the constitution is invested in the judges alone. But the House have not yet, it seems, gone far enough; they also insist on inflicting punishment for the offence. Here then they assume what the constitution contemplates as being invested in the executive power. It appears therefore, without any sophistry, that the House of Commons do unquestionably assume the legislative, the judicial, and the executive powers to be concentrated in themselves. Now let us hear what that able and admirable writer Montesquieu says upon this state of things. "When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate, or the same senate, should enact tyrannical laws, to execute them in a tyrannical manner. Again, there is no Liberty, if the power of judging be not separated from the legislative and executive powers; were it joined with the legislative, the life and liberty of the citizens would be exposed to arbitrary controul; for the Judge would then be legislator: and were it joined to the executive power, the Judge might behave with all the violence of an oppressor." Montesquieu has pretty plainly described the mischiefs arising from this union of power, in one and the same body; but this does not meet the evil of the concentration of the three powers, which I have before observed the House of Commons consider as comprehended in their privileges. The following observation, however, of Montesquieu will exactly apply to it. He says, "There would be an end of every thing (*tout seroit perdu*) were the same man, or the same body, whether of princes, or of the nobles, or of the people, to exercise those three powers; that of enacting, that of executing the public resolutions, and that of judging the crimes of individuals." It might be considered, with good grounds perhaps, that I had gone far enough to establish a tolerably solid case against the legality, or (in compliance with the distinction used by sir S. Romilly), against the justifiableness of the House of

* Reign of Henry 3, vid. Rapin 3 vol. 134.

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Commons *, in their detention of a British subject in prison, by virtue of their own mandate; but I will proceed a little farther and enquire somewhat into the precedents, which have been quoted as establishing the right of the House of Commons to the exercise of these extraordinary Privileges, as well as into the assertion which has been made, of its being essential to the existence of the House of Commons, that such Privileges should belong to it. With respect to Precedents, whether they are collected from the æra of the Tudors or the Stuarts; whether from the best or worst periods of our history, I am unable to ascertain how they can weigh one feather in the scale, if found to be in opposition to principle. In order to see what considerable dependence should be placed in the dicta or legal decisions of Judges in former periods, it may not be considered irrelevant, to give an anecdote or two of the penetration and sagacity of those lawyers about two centuries ago. Lord Clarendon gives two instances of infallible judgments during the great fire of London: The Mayor, it seems, proposed to pull down a house in order to stop the progress of the fire, but was opposed by the Lawyers who adjudged the act to be unlawful; and the house was accordingly burnt without being pulled down. Near the same time, it was proposed to break open some houses in the Temple to save the furniture, the owners being in the country; but it was declared burglary to force open a door without consent of the possessor. I presume these must have been legal opinions, founded too on some wholesome precedents; some elaborate judgments of most erudite judges. But what shall be said to the doctrine of a luminary of the law, who has discoursed most learnedly on the jurisdiction of parliament (by which word however I submit none can fairly interpret, as meaning either branch of the legislature separately) I mean that oracle, Sir Matthew Hale; that grand source of legal discoveries. In his Pleas of the Crown, he lays it down, that if a man shooting at a wild pidgeon,

happen unfortunately to kill his neighbour, it is in the English law excusable homicide; because the shooting an animal that is no man's property is a lawful act: (this is very sublime) but, "if the aim be at a tame fowl for amusement, which is a trespass on the property of another, the death of the man is manslaughter. If the tame fowl be shot in order to be stolen, it is murder, by reason of the felonious intent;" from this a conclusion is drawn, which is the acmè of the most exalted reasoning, viz. that, if a man endeavouring to kill another, misses his blow, and happeneth to kill himself, he is in judgment of law guilty—guilty of what—of wilful and deliberate self-murder—wilful and deliberate self murder, though he confessedly meant and deliberated no such thing. Really this reasoning is awful; it quite astounds the weak faculties of ordinary men, and forces them into an admiration of the venerable and vast intelligence of the oracles of the law, and ministers of even-handed justice of former times. When these luminaries are found in formidable folios, guarded and clothed with the respectable dust of antiquity, to defend undefined privileges, what man ought to lift up his head, and venture to ask about the principles of the constitution!!! It will not, I think, notwithstanding, be considered quite out of the way, if I leave these more remote judicial authorities, however respectable, to legal antiquaries, and descend to a more recent case of a judge, who appears to have possessed the extraordinary versatility of determining one way in his closet, which he handed to the world in the form of Commentaries, and of deciding in another when his theories were called into practice; I mean Sir W. Blackstone. This judge, in the Case of Brass Crosby, says, "All courts, by which I mean to include the two Houses of Parliament and the Courts of Westminster Hall, can have no controul in matters of contempt. The sole adjudication of contempts, and the punishment thereof, in any manner, belongs exclusively, and without interference, to each respective court. Infinite confusion and disorder would follow, if courts could, by writs of Habeas Corpus, examine and determine the contempts of others." For a judge who had hailed the suppression of the Star Chamber, and the writ of Habeas Corpus, as blessings which restored the landmarks of the constitution, whereby the Liberty

* The word 'justifiable' as used by sir Samuel Romilly in contradistinction to 'legal' does not seem well founded. What the House has done, is either constitutional or not; and what is constitutional is legal; what unconstitutional is illegal. Vide Paley, Moral and Polit. Economy. 2 vol. 208, 16 Edit.

of the Subject was gloriously established against unjustifiable attacks of power; that this judge should, in direct opposition to his Commentaries, deliberately adjudge that the Courts of Parliament and Westminster Hall have the sole power over contempts, and that the punishment thereof in any manner belonged exclusively and without interference to each court, seems so extraordinary, that it leaves but the choice of this alternative, that either the head or the heart of Sir William had greatly degenerated. If the most inveterate enemy of slavery, were to select for abhorrence a trait of Eastern despotism, what one more revolting could he select to an English mind, than that there existed a rule, that those who were appointed to administer justice, should, when offended themselves, inflict without controul what punishment they chose on the offenders? Could any thing more absurd be insisted on to any mind imbued with the smallest conception of the attributes of justice. Sir W. Blackstone has however so declared the right of the judges of England—he has done far worse; he has ventured to denominate this arbitrary power, law. For the offended to judge of the injury, and inflict what punishment they please, is law. Despotism then is law—most refined and pure too this law must be, for it is especially for the guidance of those who administer justice, under the most difficult and delicate of all possible circumstances, that, where they are themselves the interested parties.* Shall we ever again find an advocate for the privileges of the House of Commons to cite this doctrine of Sir W. Blackstone as law? “It blurs the face of modesty” but to recall the case to one’s memory. But perhaps we may have some ingenious special pleader gravely telling us, that it is a contempt of court of which Sir W. Blackstone speaks, and that it is the court, and not the judge that is offended. The naked walls of Westminster Hall, no doubt, that are offended. What if his present majesty were to possess, as the chief estate, such a power, would it be the less despotism, that when he inflicted voluntary

* It should seem a strange anomaly, if a contempt should be punishable at the pleasure of a court, and that the greatest crime the law contemplates, high treason against the state, should be left for the decision of a jury.

punishment, he should say it was for an offence against the state of which he was only the representative; could that reason us into the opinion that such an arbitrary act was justice? but Sir W. Blackstone has founded his decision, it may perhaps be said, on solid grounds which he has stated; for he says, “Infinite confusion and disorder would follow, if courts could, by writs of Habeas Corpus, examine and determine the contempts of others.” Now let us see what this confusion, what this disorder is, that would be the consequence of divesting courts, (supposing them for a moment to possess it) of this arbitrary power, for on that the judge is silent. And this leads me to enquire, first, what is a contempt of court? I take every act which interrupts or prevents the administration of justice to be a contempt of the court where such a consequence takes place. And I take contempt of court in its fair, legitimate interpretation, to mean no more: nor can any other case arise, as I conceive, where summary attachment can be necessary. If I were to assert that the laws in every court of justice in this kingdom (which I however verily believe not to be the case) are corruptly administered, I apprehend his Majesty’s Attorney General would file an Information, *ex officio*, against me; but would it be contended that each court might proceed by the summary process of attachment, and commit me, without any information being exhibited? And why is not this libel, it may be said, by bringing the administration of justice into disrepute, as much a contempt of court as any other? I answer, because the proceedings of no court are thereby prevented or interrupted; and for that reason a summary power becomes unnecessary. The ground of summary commitment, I take to be, that every interruption of justice is a breach of the peace, for which the offender is punishable; and to answer the offence, the commitment of the offender becomes necessary. The same power is invested in an ordinary magistrate, who if he personally see a breach of the peace, has the right of committal. Now in this way, the summary proceeding of attaching the person appears intelligible; but carry it farther, and insist on the right of the judge or magistrate to inflict arbitrary punishment, and the power becomes quite absurd, and devoid of all reason.—When the judge commits for the contempt, why would it occasion infinite disorder, if ano-

ther court could interfere by Habeas Corpus, and ascertain and adjudge the punishment due to the crime? Is it to be apprehended that no other court would decide justly, but the court where the offence originated?—that indeed would be a libel on justice—what if the offender should be punished only with such severity for this breach of the peace, that he should contumaciously offend again? Would not the judge again commit him, and would not any other court just as well consider the aggravated crime, as the judge who had been a second time offended? I am quite unable to discover the confusion that would follow in this case. On the contrary the converse of these proceedings, as maintained by Blackstone, if it lead not to confusion, it overturns at least all the barriers of political liberty, and subverts the very ends of justice. Considering the admirable Essays on the Laws and Constitution of England, which have been so exquisitely compiled by Sir William Blackstone under the title of Commentaries, I should propose as a tribute of gratitude for so valuable a performance, that the Case of Brass Crosby be for ever obliterated from the Legal Reports; that the memory of that able man may no longer be disgraced, with so weak, so feeble a performance, as his decision and reasoning there exhibit. Now, Sir, with respect to the House of Commons, it will be seen in Judge Blackstone's decision, (beyond which, I apprehend, the most strenuous advocate for arbitrary power will not advance,) that that House is assimilated in point of power in commitments, to the courts of Westminster Hall. Their powers in cases of contempt appear to be co-equal. Now if the courts of Westminster Hall have no such power as that contended for by the House of Commons, I mean the power of punishing *ad libitum*, and that they cannot, I think must be unquestionable to every reasonable man, why then it follows the House of Commons cannot have it; for the power of that House is said to be analogous to that of the Courts of Record. But I think it will appear clear that the House of Commons, without adopting such analogy, does not possess the power of punishing for contempts. Mr. Fox, whose knowledge must have been considerable upon this constitutional and important question, in his Letter to Mr. Perry published lately in the Morning Chronicle, asserts, that the House of Commons, clearly cannot imprison for a time certain, nor

impose a fine; and I understand this proposition stands conceded by the House at this moment. Now this I consider to be a most important circumstance in the reasoning on the Privileges of the House, and which on due attention will determine the question. If the House have the sole right of judging of a contempt, and of punishing the offender, how does it happen that the Commons cannot commit for any definite time, or impose any fine? I should very much wish any gentleman to shew me the consistency in the right claimed, and the restriction admitted; how they can on any possible view be made to accord; how they can co-exist. I do not expect a satisfactory answer which can justify the privilege claimed; but I will venture to point out a mode of reasoning resulting from the restriction which I think will be satisfactory, and which strongly tends to establish the proposition that the Commons are disabled from inflicting punishment. The power of commitment for any thing which interrupts the proceedings in the House of Commons, is what I have no objection to concede; it seems reasonable, and what ought to be inherent in every Court, House, or Assembly of legitimate authority. But this committal is, I contend, not as a punishment, but only as a necessary preliminary to judicial investigation. Now the restriction from commitments for a definite period, and the assessment of a fine, most clearly evidence the accuracy of what I have stated. For when we consider for a moment, we shall find the distinction between commitment and commitment for a determinate period, however limited the latter, though it were only for an hour, to be founded on totally different principles. The latter, or commitment for a time certain, presupposes an offence, the extent and delinquency of which has been ascertained; the limited time of imprisonment being the punishment adequate to the crime. For there is no other principle for confining a man for a day and then liberating him, but that of punishment. It must be the latter, or absolute despotism. The fine certainly admits of the same reasoning, and leads to the same conclusion. It must be either a legal infliction of punishment, or it must be arbitrary power. But the House of Commons, I submit, cannot punish, because they are not a Court of Judicature; for they cannot examine upon oath, one of the indispensable fea-

tures of such a court; and because if they were a Court of Judicature, they could not judicially investigate an offence committed against themselves, and award a punishment due to the crime. If this be denied, let it be pointed out upon what principle of common sense the House is restricted from inflicting definite imprisonment, or imposing a fine. It will not be said the House is restrained from the former power, because if a definite period of Imprisonment were awarded, the House might be dissolved before the time expired, and that their powers would cease to exist. This would be an absurd answer, because it would just as strongly apply against the punishment awarded by a Judge, who might before the expiration or infliction of the punishment, be either dead, or removed by impeachment; or might have retired. I cannot therefore but feel, that the restrictions I have mentioned, point out the line of demarcation in respect of the Privileges of the House in a most clear and forcible manner; thereby making their Privileges extending to commitment, consistent with the laws of the land, and not a virtual repeal of the land-marks of the constitution, which, as it should seem to me, would conclusively follow an extension of the powers of the House of Commons to the degree insisted upon, viz. of punishing at pleasure. The reasoning which occurred to Sir Samuel Romilly, in considering the state of our penal laws,* in his argument to shew the impropriety of leaving any thing discretionary with a judge, is similar to what I have been contending for: Sir Samuel says "unknown laws are the same as non-existing laws. It is a necessary consequence of knowing what actions are punishable by law, that it should also be known what a man may do without fear of punishment; and it is not," he continues, "a little extraordinary, that in a country in which men have been accustomed to think that one of the greatest political blessings they enjoyed, was that they lived in the security which known and certain laws afforded them, we should be told by a writer of such high character, and such extraordinary merit as Dr. Paley,† that it is good that laws

"be not known, because if known, they might be evaded;" and again this gentleman says, "If imprisonment for debt is to be justified on the ground of punishment, it should be observed, that in this respect it differs from the punishment of all other crimes, that a power of pardoning exists no where but in the offended creditor."* I hope it may be considered, Mr. Cobbett, an excusable digression, if I make an observation on the circumstance of two such considerable men as Dr. Paley, and Sir Samuel Romilly, speaking gravely and seriously of unknown laws. It is with great submission I say it, and I should not say it but that I deem it important, that it is entirely a perversion of sense, to talk of an unknown law, in the political view in which Dr. Paley and Sir Samuel Romilly both use this word. Publicity is the very essence of its definition: under every established government, laws mean a code or body of rules for the regulation of the state; a breach or non-observance whereof is criminal; but it cannot be a crime to disobey rules which no man can ascertain to exist. An Eastern Potentate might determine, that every one of his subjects who should happen to pass his palace at a certain hour should be decapitated, and this resolution might no doubt be kept by this sovereign in petto. Now, that this would be an extraordinary exercise of arbitrary power there could be no question, but surely it could not be termed law. In the political sense in which "law" is used, Dr. Johnson has given a clear definition; it is, says the Doctor, "A decree, edict, statute, or custom, publicly established as a rule of justice†." Law and Political Liberty are words to an Englishman, of very valuable import, and synonymous in their meaning; and nothing can be more essential, than that there should be no vague and loose interpretation of a word, which, if it admitted the alarming quality supposed by the above gentlemen, would undoubtedly place Englishmen in danger of being law-less. I have already occupied too many of your pages, Mr. Cobbett, and I will now endeavour to conclude with what brevity I am able. I am at a loss to ascertain why Magna Charta should not in its operation be held to relate to the House of Com-

* Sir Samuel Romilly on the Criminal Law.

† Dissertation on Crimes and Punishments, vid. Mor. et Polit. Phil.

* Note, c. 42.

† Dictionary, voce, "law."

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mons. The words "per legem terræ," may be pretended, apply to the privileges in question; but considering that the house where these privileges are said to have a place, had an *ex post facto* existence, the inference seems uncommonly strained. But what, let me ask, will be said to the statute which passed in the 28th of Edward 3*, which enacts "That no man of what estate or condition soever, shall be put out of his land or tenement, nor taken, nor imprisoned, nor disinherited, nor put to death, without being brought in to answer by due process of law." Will it be attempted to be argued, that the Speaker's Warrant is due process of law within the meaning of this statute? If not, is this statute repealed? on the contrary, it is stated by note in the statute books, to have been recognised and confirmed by that memorable statute which abolished the Court of Star Chamber, and gave the writ of Habeas Corpus; a statute of which an able author thus speaks, "We must admire, as the key stone of Civil Liberty, the statute which forces the secrets of every prison to be revealed, the cause of every commitment to be declared, and the person of the accused to be produced, that he may claim his enlargement or his trial, within a limited time. No wiser form was ever opposed to the abuses of power. But it requires a fabric no less than the whole Political Constitution of Great Britain, a spirit no less than the refractory and turbulent zeal of this fortunate people, to secure its effects."† During the contest respecting the Middlesex Election in the time of Mr. Wilkes, Lord Chatham made several motions grounded on the illegality of the powers assumed by the House of Commons. These motions were opposed by the then Chief Justice, Lord Mansfield; but notwithstanding the strong support which power and prerogative had ever met with in this Judge, it is deserving of consideration, what cautious and ambiguous language his Lordship used with regard to the Privileges of the Commons. He said, "Declarations of the law made by either House of Parliament, were always attended with bad effects; he had constantly opposed them, whenever he had opportunity, and in his judicial capacity thought

"himself bound never to pay the least regard to them." But then with that flexibility; with that peculiar quality of mingling light with shade, which his Lordship possessed, thereby frittering strong and clear passages into unintelligible obscurity; he proceeded to observe in the same Speech, "That for his own part, whenever the statute law was silent, he knew not where to look for the law of Parliament, or for a definition of the Privileges of either house, except in the proceedings and decisions of each house respectively." But can it be said, after Magna Charta, and the still stronger declaration in favour of the Liberty of the Subject enacted in the reign of Edward 3, could my Lord Mansfield have said, in this instance, that the statute law was silent? If not, how are the Privileges in question to be defended. But even with that qualification, of the silence of the statute law, in the Case that then occurred, Lord Camden, that able and enlightened statesman and lawyer, and who in consequence resigned the seals, in unison with that yet greater man Lord Chatham, opposed the doctrine of Lord Mansfield, and the Privileges claimed by the Commons, as subversive of the constitution. "What then, my Lords," said Lord Chatham, "are all the generous efforts, the glorious contentions of our ancestors reduced to this conclusion, that, instead of the arbitrary power of a King, we must submit to the arbitrary power of a House of Commons? Tyranny, my Lords, is in no shape so formidable as where it is assumed and exercised by a number of tyrants. But, my Lords, this is not the constitution; for we all know that the first principle of the constitution is that the subject shall not be governed by the arbitrium of any one man or body of men, but by certain laws to which he has virtually given his assent."* These Sir, are the authorities, which the small portion of time I have been able to afford to the very important subject under discussion, have fallen under my observation. —Trifling must be the reasoning required to prove that the precedent which is founded on usage, can never prevail against those acknowledged principles of Justice, which are as immutable as their great Author, who in the plenitude of his goodness, has so strongly impressed them upon our understandings; these, no so-

* Chap. 3.

† Ferguson on Civil Society.

* Debates 1770.

phistry can erase, no artifice can change.—It is on these axioms therefore of distributive Justice, in the absence of any conflicting statutory law, that I strenuously insist against the exercise of the Privileges asserted by the House of Commons, which, by invading the Liberty of the Subject, appear to me to shake the constitution to its very centre, and to reduce it to the mere "baseless fabric of a vision."

I am Sir, &c.

W. F. S.

Lincoln's-Inn, April 12, 1810.

EDINBURGH REVIEWERS.

SIR;—I could not help smiling at the fanciful arrangement of parties, made by the Edinburgh Reviewers, in a paper on that subject in their last number; and at the very impartial distribution of the various passions and vices they have chosen to ascribe to each. After having almost exhausted the catalogue, in the attributes of the "two most pernicious factions," into which, according to them, the country is divided—all the virtues, as well as all the talents, fall by a sort of modest implication, to the share of "the small but most respectable band," under whose colours those gentlemen have ranged themselves. I am far from finding fault with their plan, for the salvation of the country, the siding with the friends of Parliamentary Reform; I should be well pleased to see that cause receive such an accession. But does it not strike you, Mr. Cobbett, that there is a sort of inconsistency in those "Constitutional Whigs," talking of, "identifying themselves," with men whom they, in this very paper, most pertinaciously stile "Democrats?" And here I would ask, was the great lord Chatham a democrat? Was Mr. Pitt in 1782 a democrat? Was their own Mr. Fox a democrat? Those to whom they apply that obnoxious term, want only what those great men declared absolutely necessary for the salvation of the Constitution! The Reviewers complain bitterly of the want of popularity, under which this most respectable band of Patriots labour—but does it not occur to them, that there must be some cause for this effect? In a word, has their conduct, either in or out of place, been such as to entitle them to popularity: Was the doubling the Property Tax likely to make them popular? Was their conduct, during the late investigations, such as to make them popular?

No, Sir! To them alone is to be attributed the present apathy, with respect to public men, and public measures! to them we owe the continuance in office of the present ministers. No good is expected, from a change of men only! the present set is in some degree already gorged; and this crest-fallen people are content to be ruled by men whom they despise, merely because they cannot afford to pay for a change, even although productive of an accession of talent to the government.—To those, who recollect these things, no caution is necessary to prevent them, from placing too great a reliance, on the "new light" the Edinburgh Reviewers seem to have got on the subject of Parliamentary Reform. And to the old and tried friends of that important measure, nothing but the most solemn pledge of their sincerity, ought to induce them to lend their popularity, to men, whose recent conduct has given so little room to suppose them hearty in the cause. But let them come manfully forward, and give such pledge, an unequivocal pledge! And I will venture to predict, that the voice of every honest and independent man in the country will be raised in their favour: and that with such effect, as to make the defenders of corruption tremble in every limb; and by yielding up the places they are so little qualified, and let me add so unworthy to fill, shew a proper respect and deference to the opinion of an injured and an insulted people.—Of this I am satisfied, that, whether the fears of the Edinburgh Reviewers are real or chimerical, the enemies of the country, whether in the shape of foreign foes, or domestic incendiaries, never can have more active or successful coadjutors, than Messieurs P. & Co.—After what I have said, you will not dispute my title to subscribe myself, what, upon such subjects, every man in this country ought to be

A FREE THINKER

Linlithgowshire, 2 April, 1810.

LEGALITY OF THE EXECUTION OF THE SPEAKER'S WARRANT IN THE CASE OF SIR FRANCIS BURDETT, EXAMINED.

[From *Bell's Weekly Messenger*.]

Every one must concur in our satisfaction that the peace of the metropolis is restored, and that what commenced in such menace, and with so much appearance of mischief, has had so harmless a termination compared with what might

have been expected. The errors of government are usually more mischievous—The mob is a wild and furious principle put in motion. It is but candid, however, to acknowledge that by their celerity in assembling an armed force, and perfectly surrounding the town with soldiers, ministers met the evil manfully, and most certainly prevented it from spreading—Had not these precautions been taken, London might now have presented a scene of ruin, of outrage, and of plunder.—When we speak, therefore, of the error of government, we allude only to the excessive imprudence of ministers in pushing on the House (for it was the act of ministers) into the imprisonment rather than the reprimand of Sir Francis.

It will be seen in another part of our paper, that the warrant was executed upon Sir Francis by breaking into his house, by a forcible entry through the outer doors and windows with a civil and military force.

Of all the principles of our law there is scarcely any more sacred than that which acknowledges the sanctity of a man's dwelling-house, and this principle is carried so far, that in innumerable cases—indeed in all cases, except in crimes, the law allows this castle to be a fortress and barrier against itself.—In the same manner as military law, from respect to the personal dignity of an offending officer, will in many cases confine him to his own room or own house—so our civil law, from respect to his personal liberty, will in many cases allow him to be so far restrained and no farther.—You may hunt him to his house, but no farther shalt thou enter.—The law, entering into our feelings, sanctifies as it were this dwelling of our heart and of our family,—this shrine of all our liberties, and temple of all our dearest enjoyments!—and under these notions will not admit its violation except for acts which endanger the state—except for crimes, which, desecrating it as it were, converts this respected asylum into a den of thieves. This character of the English law is its best praise—and any one who enters into the spirit and true analogy of it—any one who interprets it in the same spirit in which it was made, will interpret it in this neighbourly spirit;—will at the same time feel the reason, and modify the deductions of abstract argument, by considerations of our nature, national

character—natural passions, habits, and feelings.

If any thing be hateful to the sight of an Englishman, and therefore averse from the spirit of the English law, it is the spectacle of any outrage on what he has been taught to consider as his castle, his dwelling-house—the walls which contain his family, and usually the memory and property of his fathers.

The manner in which the Speaker's warrant was executed appears to us (we speak with the temper and impartiality of judicial inquiry, and mean no disrespect) to have been in contempt and defiance of these principles; and an opinion having been taken it has been declared to be legal—Other opinions, however, may and have been opposed to that of the Attorney-General, who, with all his acknowledged learning and talents, is not what is termed a good constitutional lawyer—His habits, and (we say it without intended offence) his temper lie another way—He is better read in the brazen tablet of crown law—here the letters are before him, and their vigour and energy—their deep imprint and broad legible type, better suit his eyes, and the peculiar turn of his mind—He is a good soldier—an able grenadier in the service of government—and as Attorney-General, he is necessarily and immediately in their service—His opinion, therefore, is in some degree *ex-parte*—It lies open to fair suspicion, and therefore may justify and require examination.

This question must turn upon two points—

1. What is the Law of the Case if it be considered as purely a Civil Warrant and a Civil Case.

2dly. What is the Law of the Case if it be considered as a Criminal Warrant, and what are the grounds upon which it is asserted to be such.

To consider it therefore in these two points of view.

1. With respect to process in a Civil Case:—We have already stated the reverence with which the Law regards the dwelling-house, and the principle of that reverence; that it is the Castle and Sanctuary of the Individual,—at once his temple and his fortress,—a place whither he withdraws himself from general society, and to use an homely, but expressive proverb, becomes the King of his Fireside.—Having stated the principle, we shall quote the Law from the Law Books:—

"With regard to the Ministers of Justice," says Forster, "executing the ordinary Process of the Law, and likewise to private persons endeavouring to arrest or imprison, it behoveth them to be very careful that they do not misbehave themselves in the discharge of their duty, lest by such misbehaviour they lose the protection of the law—One frequent instance of their misbehaviour is, their breaking open doors or windows, in order to arrest—Now, be it understood that the Officer cannot justify the breaking open an outward door or window to execute Process in a Civil Suit—If he doth, he is a trespasser; but if he findeth the outer door open, and entereth that way, or if the door be opened to him from within, and he entereth, he may break open inward doors if he find that necessary, in order to execute his Process—The Books say, that a Man's House is his Castle for safety and repose to himself and family, and consequently the Officer, in the case I have put, being a trespasser himself, cannot be said to be acting in discharge of his duty.—These suppositions are inconsistent and destroy each other—But if he findeth the door open, or gaineth admission from within, he having a lawful call to the place, as he certainly hath, cannot be a trespasser in entering the house, and consequently may remove any obstruction he meeteth with in prosecuting the business he came about."

Such therefore is the Law of Warrants in Civil Cases, as stated by Sir Michael Forster in his justly celebrated Treatise on Crown Law—The argument is not very clearly stated, but reduced to its terms is logical and sound. It is briefly this—

By a principle of Law, an Englishman's House is a Castle, and therefore must not be forcibly entered, except for a greater wrong than would be the forcible entrance itself.

Now the forcible entrance itself would be a Trespass.

The House, therefore, cannot be forcibly entered except for something beyond a Trespass—and all suits in Civil Process being laid in Trespass, the House of course cannot be legally entered with force by Civil Process.

Now, therefore, we would ask, why should the Speaker's Writ be considered in any other point of view than as a Civil Process, or rather as a Warrant in execution for contempt—In the dearth of all adjudged cases, says the Attorney-General, we must have recourse to analogy—Let

us have recourse to it, therefore, but let the analogy be drawn from the whole body of the Constitution—its maxims, its principles, and its acknowledged elements,—and not from something picked out by the ingenuity of a Crown Lawyer—The argument of analogy is good for nothing, unless where it be laid in the community of essential qualities—To any legal and logical purpose similitude is not analogy—*Nullum simile*, says Lord Coke, *quatuor pedibus currit*,—or, in other words, and as perhaps that quaint Lawyer would himself translate it, Law can never ride safely on the back of mere Simile.

The first maxim of the Law, and therefore the first ground of Analogy, is what we have above mentioned—the Sanctity of the dwelling,—the Privilege of Home, and thence the consequential rule, that this Sanctuary should not be violated except in the case of Crimes,—that is to say, Breach of the Peace and Felony.—Now it is not pretended, and could not be maintained, that the case was in either of these predicaments, the Warrant being a Warrant of Privilege, and not a Peace-Warrant,—being under the hands of the Speaker as Speaker, and not of a Magistrate—What has been said of its being a Warrant in Execution does not alter the case, because all Warrants in Contempt are Warrants in Execution—there is no mesne process in this species of offence; the judgment is final at once.

On what, therefore, is the Legality of the Warrant alledged—This leads us to our second head, how far it is a Criminal Process.

2dly. "There is no precedent," says the Attorney-General, "and therefore the case must be decided on analogy; and in the absence of any direct case, he did not see why such a warrant as that directed to the Serjeant, should not be executed in the same manner that a criminal process, where the king was the prosecutor, would be carried into effect. It was in that view the present case could only be considered, there being no direct authority to support its exercise. It was to be observed, that the fullest notice should be given to the individual whose person was to be seized, of the purport of the officer's coming. He also was of opinion, that the proper officer might call to his aid all species of aid, military as well as civil. He did not think that the warrant should be executed at night, but in case of any rescue he was fully of opinion, that it was

perfectly legal to break in and search, not only the houses of the individual respected, but of any other person, where there was a justifiable suspicion to suppose that he was concealed." An argument of analogy, as we have above said, can only be good for any thing, inasmuch as it is laid in the community of the essential qualities of the subjects compared,—that is to say, in that part of the substance which operates the law in the one case, and which, having a counterpart in the other object of the comparison, constitutes a fair ground of reasoning; that the analogy of the premises should lead to a similar correspondence of the logical consequences.

Now, what is this essential quality in the King's Writ? That is to say, in Writs of Peace and Felony. What is that quality in the nature of these subjects which induces the law to exempt them from the limits of its maxim in Civil Process, and to allow them to come at the criminal by breach of outer doors, &c.?

There are but two possible qualities on which this distinction can be founded; it is either granted *ex vi dignitatis*, from the personal dignity of the throne, or *ex vi criminis*, from the nature and character of the offence.

If it be assigned to the first, the Constitution will not extend the same consideration of dignity to the Commons. The Commons may be co-ordinate in power, but certainly not in dignity with the Crown. The Commons, as has been observed, have no ensigns of royalty. They are the Honourable House, but nothing more. If their dignity be assumed as the measure of their legal and constitutional competency, it will be still worse for the country than their present assumption of Privilege. Privilege may possibly have some limits; dignity has none. It is not a thing of quantity or measure. We hope, therefore, that the power now assumed will not be grounded on the alledged dignity of the House, and that in the argument of the Attorney General the analogy is not laid in their co-ordination of dignity.

The point of fact, however, is, that the King's Writs have this effect not from the dignity of the name, but *ex vi criminis*. Let us hear Forster again.

"The rule already mentioned (that of not breaking Doors) must be confined to the cases of arrest upon Process (here the Process meant is either mesne or final) in civil suits. For where a felony has been

committed, or a dangerous wound given, or even where a minister of Justice cometh armed with process founded on a breach of the peace, the Party's own House is no sanctuary to them, Doors may in any of these cases be forced, due notification, demand, and refusal of entrance having been previously made. In these cases the jealousy with which the Law watcheth over the public tranquillity (a laudable jealousy it is;) and the principles of justice, *Ne maleficia remaneant impunita*, all conspire to supersede every pretence of private inconvenience, and oblige us to regard the dwellings of malefactors when shut against the demand of public Justice as no better than the Dens of Thieves and Murderers, and to treat them all accordingly."

Such, therefore, are the only principles on which the Law takes from a man the sanctuary of his dwelling house; that is to say, when by an atrocious crime he has himself defiled, and, as it were, unsanctified his refuge, and, instead of that peaceful home, which the Law terms his Castle, has rendered it a den of thieves and outlaws.

Now in the case immediately under consideration does there seem any crime of this nature? Breach of the Peace, as we say, is not pretended; and surely contumacy to the Honourable House cannot be put on a par with Felony.

Thus, therefore, neither in dignity, nor in the atrocity of the crime, does there seem any parallel between the two cases—the King's Writs or the Speaker's Writs—to justify the same resort in both, and to constitute that analogy which is necessary to ground a legal conclusion. Analogy, as we have said, must not be confounded with Similitude. Similitude is mere superficial resemblance, and belongs to Poets and Orators—Analogy is such a resemblance in substance and essential qualities, that in reasoning the two objects may be *quatenus*, as the Logicians express it—substituted for each other, and belongs to Lawyers and Reasoners.

But if the Warrant be good for any thing, says Sir John Anstruther, it is good for every thing!—Indeed! Why may not a warrant, like every thing else, be good to a certain extent, and no farther; and may be good for one thing and not for another. Sir John Anstruther may be a good Judge for India; does it hence follow that he would be a good Judge for England? The King's Writ to the Sheriff

is good to arrest a man in the street, or to enter a house after the door is open; but is it a good Writ to break doors or windows, &c?

"But this power is necessary to resist Prerogative," says Mr. Whitbread. Many other Powers may be necessary to the same end. There will be no end of this necessity, if the presumption of it be assumed as the justification of such Rights. But when the battle is between Privilege and Prerogative, they must fight it out with their own weapons. The Law will give little help to either.

Mr. Whitbread again instanced the case of the witnesses of Mrs. Clarke refusing to appear. This is totally a different thing. The House is there a Grand Jury, and may send for any one; they do not there act upon their privileges, but on their judicial rights.

To say all in a word,—what does the Warrant specify as the Crime of Sir Francis Burdett?—It specifies Breach of Privilege,—or, if broken into particulars,—Libel—and Contempt of Court—Now it has been ruled in Wilkes's case by Lord Camden, that Libel is not a Breach of the Peace, but only tends to it,—and therefore, that it will not justify breach of outer doors,—no, not even the arrest of a Member of Parliament—It is the same with respect to Contempt of Court—No Civil Process, founded on Contempt, can justify this Breach of House—For example, the King's Bench never assumes to do it, when they issue attachments for not obeying Awards, Orders of Court, &c. Now if the act or crime alledged can be brought within any of these specific analogies, where is the necessity of wandering with the Attorney General into the wide field of general analogy—The reason of the Law, where it can be had, is better than the reason of the Judge, and particular analogies are, for the same reason, better than general ones, because they more narrowly limit a discretionary interpretation, and because, if they cannot reach the actual certainty of a rule, they more nearly approximate to it.

It is our opinion, therefore, that the mode in which the Speaker's Warrant has been executed is illegal, and that Sir Francis Burdett may, if he so please, indict the Serjeant and his assistants for a forcible entry into his dwelling-house, or

bring a Civil Action of Trespass against them.

OFFICIAL PAPERS.

NOTES of the French Official Paper, the MONITEUR, upon the DEBATES in the House of Lords on the Motion of Thanks to Lord Wellington. — (Continued from p. 576.)

Had the French army been conducted with more experience, the victory would have been complete, and not an Englishman would have escaped. The French General ought not to have committed the error of attacking the English; he ought to have let them advance upon Madrid, in order that the 80,000 men under the command of the Duke of Dalmatia might cut off their retreat by the Tagus.

The English had so little success at Talavera, that they suffered the King to fall upon and destroy the army under Venegas, and surely that must be a very singular success, which could not prevent an enemy from marching to destroy an allied corps, the day after the battle. Lord Wellington conducted himself with little military skill. When he heard of the arrival of the French at Placentia, he thought they were only about 6,000; and it was not until a few days after, that he saw the necessity of re-crossing, to prevent his retreat being cut off by the Duke of Dalmatia. There was no success in Portugal, because there was no fighting there, and because the Duke of Dalmatia evacuated it on learning that the English had joined the Spaniards.

Lord Wellington's march to Talavera discovers the rash and unskilful General. To have the whole country at command, and not to know where the enemy is, is a thing almost inconceivable. But this is not the first time that the English have lavished their money without any advantage.

Lord Wellington did not, from choice, take a possession of Almenida; he was compelled to it by the Duke of Dalmatia; and, probably, the French army, in which there were two excellent corps, the 5th and the 6th, ought not to have taken the pains of moving for such an object. The English thought that the war with Austria had weakened the army in Spain: they were mistaken in their calculation.

(To be continued.)